

5-1527

II

Calendar No. 371

99TH CONGRESS
1ST SESSION

S. 1527

[Report No. 99-166]

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30 (legislative day, JULY 16), 1985

Mr. STEVENS (for himself and Mr. ROTH) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

OCTOBER 30 (legislative day, OCTOBER 28), 1985

Reported by Mr. ROTH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Civil Service Pension
4 Reform Act of 1985".

1 PURPOSES

2 ~~SEC. 2.~~ The purposes of this Act are—

3 (1) to provide Federal employees with a retire-
4 ment benefits plan which is comparable to good private
5 sector retirement benefits plans;

6 (2) to promote financial stability and flexibility for
7 the future of each Federal employee;

8 (3) to ensure a fully funded and financially sound
9 Federal Government retirement benefits plan;

10 (4) to enhance portability of retirement assets be-
11 tween Federal jobs and jobs outside the Federal Gov-
12 ernment;

13 (5) to increase the options of each Federal em-
14 ployee with respect to retirement benefits plans;

15 (6) to encourage Federal employees to increase
16 personal savings for retirement;

17 (7) to include Federal employees in the invest-
18 ment decisionmaking process with respect to the assets
19 of the retirement system; and

20 (8) to extend financial protection from disability to
21 additional Federal employees and to increase such pro-
22 tection for eligible Federal employees.

1 **TITLE I—CIVIL SERVICE PENSION SYSTEM**
 2 **ESTABLISHMENT**

3 **SEC. 101. (a) Title 5, United States Code, is amended**
 4 **by inserting after chapter 83 the following new chapter:**

5 **“CHAPTER 84—CIVIL SERVICE PENSION SYSTEM**

“SUBCHAPTER I—DEFINITIONS; CIVIL SERVICE PENSION SYSTEM

“Sec.

“8401. Definitions.

“8402. Civil Service Pension System; participation.

“8403. Relationship to the Social Security Act.

“SUBCHAPTER II—BASIC PLAN

“8411. Entitlement to immediate retirement.

“8412. Entitlement to deferred retirement.

“8413. Computation of annuity.

“8414. Reduction for early retirement.

“8415. Reduction for survivor annuities.

“8416. Methods of payments.

“8417. Level benefits option.

“8418. Funding.

“8419. Funding of annuity attributable to military service.

“SUBCHAPTER III—THRIFT SAVINGS PLAN

“8421. Contributions.

“8422. Vesting.

“8423. Entitlement and elections relating to entitlement.

“8424. Annuities: methods of payment; election; and computation.

“8425. Administrative provisions relating to payments and elections.

“8426. Thrift Savings Fund.

“8427. Investment of Thrift Savings Fund.

“8428. Accounting.

“SUBCHAPTER IV—SURVIVOR BENEFITS

“8431. Basic plan spousal benefits relating to the death of a participant or former participant other than an annuitant.

“8432. Basic plan spousal and insurable interest benefits relating to the death of an annuitant.

“8433. Survivor benefits under the thrift savings plan.

“8434. Basic and thrift savings plan survivor benefits relating to marriage after commencement of an annuity.

“8435. Survivor benefits for former spouses: entitlements; amount.

“8436. Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.

“8437. Termination of entitlement.

“8438. Deposits to the Fund.

"SUBCHAPTER V—DISABILITY BENEFITS

- "8441. Definitions.
- "8442. Entitlement.
- "8443. Computation of benefits.
- "8444. Application.
- "8445. Medical examinations.
- "8446. Offers of alternative employment.
- "8447. Recovery or restoration of earning capacity.
- "8448. Relationship to workers' compensation.
- "8449. Military reserve technicians.
- "8450. Administrative provisions.
- "8451. Annual accounting; special contingency reserve.
- "8452. Federal Employees' Disability Insurance Fund.

"SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

- "8461. Authority of the Office of Personnel Management.
- "8462. Cost-of-living adjustment in basic plan annuities and survivor annuities.
- "8463. Rate of benefits.
- "8464. Commencement and termination of annuities.
- "8465. Waiver, allotment, and assignment of benefits.
- "8466. Application for benefits.
- "8467. Court orders.
- "8468. Annuities and pay on reemployment.

"SUBCHAPTER VII—TRANSITION PROVISIONS

- "8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.
- "8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.
- "8473. Participants subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1982.
- "8474. Reemployed annuitants under the Civil Service Retirement and Disability System.
- "8475. Exemption from certain offset provisions of the Social Security Act.
- "8476. Regulations.

"SUBCHAPTER VIII—CIVIL SERVICE THRIFT INVESTMENT MANAGEMENT SYSTEM

- "8491. Civil Service Thrift Investment Board.
- "8492. Civil Service Thrift Advisory Committee.
- "8493. Executive Director.
- "8494. Investment policy.
- "8495. Administrative provisions.
- "8496. Fiduciary responsibilities; liability and penalty.

1 **"SUBCHAPTER I—DEFINITIONS; CIVIL SERVICE PENSION**

2 **SYSTEM**

3 **"§ 8401. Definitions**

4 "Except as otherwise provided in this chapter, for the
5 purposes of this chapter—

5

1 “(1) the term ‘account’, when used with respect
2 to a participant or annuitant, means an account estab-
3 lished and maintained under section 8428(a) of this
4 title;

5 “(2) the term ‘annuitant’ means a former partici-
6 pant who is entitled to an annuity under this chapter
7 and who has applied under this chapter for the pay-
8 ment of the annuity to commence;

9 “(3) the term ‘average pay’, when used with re-
10 spect to a participant, means the largest annual rate
11 resulting from averaging the participant’s rates of basic
12 pay in effect over any 5 consecutive years of creditable
13 service or, in the case of an annuity under this chapter
14 based on service of less than 5 years, over the total
15 service, with each rate weighted by the period it was
16 in effect;

17 “(4) the term ‘basic pay’, when used with respect
18 to a participant—

19 “(A) means the lesser of—

20 “(i) the basic pay of the participant es-
21 tablished pursuant to law, without regard to
22 any provision of law (except sections 5308
23 and 5382(b) of this title) limiting the rate of
24 pay actually payable in any pay period (in-

1 cluding any provision of law restricting the
2 use of appropriated funds); or

3 “(ii) the rate of basic pay payable for
4 level I of the Executive Schedule; and

5 “(B) includes the items described in subpara-
6 graphs (A) through (D) of paragraph (2) of section
7 8331 of this title and does not include the items
8 excluded by such paragraph;

9 “(5) the term ‘Board’ means the Civil Service
10 Thrift Investment Board established by section 8491(a)
11 of this title;

12 “(6) the term ‘Civil Service Retirement and Dis-
13 ability Fund’ means the Civil Service Retirement and
14 Disability Fund referred to in section 8348 of this title;

15 “(7) the term ‘court’, when used with respect to a
16 judgment, decree, order, or other judicial action, means
17 any court of the United States, a State, the District of
18 Columbia, the Commonwealth of Puerto Rico, or a ter-
19 ritory or possession of the United States, or any Indian
20 court, having jurisdiction to issue such judgment,
21 decree, or order or to take such other judicial action;

22 “(8) the term ‘Director’ means the Director of the
23 Office of Personnel Management;

24 “(9) the term ‘dynamic assumptions’ means eco-
25 nomic assumptions that are used in determining actuar-

1 ial costs and liabilities of a retirement system and in
2 anticipating the effects of long-term future—

3 “(A) investment yields,

4 “(B) increases in rates of basic pay; and

5 “(C) rates of price inflation;

6 “(10) the term ‘earnings’, when used with respect
7 to the Thrift Savings Fund, means the amount of the
8 gain realized or yield received from the investment of
9 sums in such fund;

10 “(11) the term ‘eligible former spouse’, when used
11 with respect to a participant or former participant,
12 means a former spouse of the participant or former
13 participant who was married to the participant or
14 former participant for at least 9 months;

15 “(12) the term ‘employee’ means—

16 “(A) each individual referred to in subpara-
17 graphs (A), (E), (F), (H), (I), and (J) of section
18 8331(1) of this title, including an employee of the
19 United States Park Police and an employee of the
20 United States Secret Service; and

21 “(B) a Congressional employee as defined in
22 section 2107 of this title, including a temporary
23 Congressional employee;

24 any of whose service after December 31, 1983, is em-
25 ployment for the purposes of title II of the Social Se-

1 eurity Act and chapter 21 of the Internal Revenue
2 Code of 1954, except that such term does not include
3 any individual referred to in clause (i), (ii), (v), (vi), or
4 (ix) of paragraph (1) of section 8331 of this title or in
5 the undesignated material after clause (ix) of such
6 paragraph, any individual excluded under section
7 8402(b)(2) of this title, or any individual who was sub-
8 ject to subchapter III of chapter 83 of this title on De-
9 cember 31, 1983, and has not commenced participation
10 in the System pursuant to section 8471 of this title;

11 “(13) the term ‘Executive Director’ means the
12 Executive Director appointed under section 8493(a)(1)
13 of this title;

14 “(14) the term ‘firefighter’ means an employee the
15 duties of whose position—

16 “(A) are primarily to perform work directly
17 connected with the control and extinguishment of
18 fires; and

19 “(B) are sufficiently rigorous that employ-
20 ment opportunities are required to be limited to
21 young and physically vigorous individuals, as de-
22 termined by the Director considering the recom-
23 mendation of the employing agency;

24 “(15) the term ‘Fund’ means the Civil Service
25 Retirement and Disability Fund;

1 “(16) the term ‘Government’ means the Federal
2 Government and Gallaudet College;

3 “(17) the term ‘law enforcement officer’ means an
4 employee, the duties of whose position—

5 “(A) are primarily (i) the investigation, ap-
6 prehension, or detention of individuals suspected
7 or convicted of offenses against the criminal laws
8 of the United States, or (ii) the protection of offi-
9 cials of the United States against threats to per-
10 sonal safety; and

11 “(B) are sufficiently rigorous that employ-
12 ment opportunities are required to be limited to
13 young and physically vigorous individuals, as de-
14 termined by the Director considering the recom-
15 mendation of the employing agency;

16 “(18) the term ‘loss’, when used with respect to
17 the Thrift Savings Fund, means the amount of the loss
18 realized from the investment of sums in such fund;

19 “(19) the term ‘lump-sum credit’ has the same
20 meaning as provided by section 8331(8) of this title;

21 “(20) the term ‘Member’ has the same meaning as
22 provided in section 2106 of this title, except that such
23 term does not include a person who (A) was a Member
24 of Congress on December 31, 1982, and (B) has not

1 commenced participation in the System pursuant to
2 section 8471 of this title;

3 “(21) the term ‘military reserve technician’ means
4 a member of one of the reserve components of the
5 Armed Forces specified in section 261(a) of title 10
6 who—

7 “(A) is assigned to a civilian position as a
8 technician in the administration and training of
9 such reserve components or in the maintenance
10 and repair of supplies issued to such reserve com-
11 ponents; and

12 “(B) as a condition of employment in such
13 position, is required to be a member of one of
14 such reserve components serving in a specified
15 military grade;

16 “(22) the term ‘net earnings’ means the excess of
17 earnings over losses;

18 “(23) the term ‘net losses’ means the excess of
19 losses over earnings;

20 “(24) the term ‘normal cost’ means the entry-age
21 normal cost of the provisions of the System which
22 relate to the Fund, computed by the Office in accord-
23 ance with generally accepted actuarial practice and
24 standards (using dynamic assumptions) and expressed
25 as a level percentage of aggregate basic pay;

1 “(25) the term ‘Office’ means the Office of Per-
2 sonnel Management;

3 “(26) the term ‘participant’ means an employee or
4 Member or a person who is receiving disability benefits
5 under subchapter V of this chapter;

6 “(27) the term ‘price index’ has the same meaning
7 as provided in section 8331(15) of this title;

8 “(28) the term ‘service’, when used with respect
9 to a participant or former participant, means—

10 “(A) employment as a participant;

11 “(B) subject to section 8419(a) of this title,
12 military service as provided in section 8332(e) of
13 this title; and

14 “(C) service that is creditable under subchap-
15 ter III of chapter 83 of this title, but only to the
16 extent provided in section 8472(a) of this title;

17 “(29) the term ‘supplemental liability’ means the
18 estimated excess of—

19 “(A) the actuarial present value of all future
20 benefits payable from the Fund under this chap-
21 ter, over

22 “(B) the sum of—

23 “(i) the actuarial present value of the
24 future contributions to be made on behalf of

12

1 participants pursuant to section 8418(a) of
2 this title; and

3 “(ii) the balance in the Fund attributa-
4 ble to the System on the date the supple-
5 mental liability is determined; and

6 “(30) the term ‘System’ means the Civil Service
7 Pension System described in section 8402(a) of this
8 title.

9 **“§ 8402. Civil Service Pension System; participation**

10 “(a) The provisions of this chapter comprise the Civil
11 Service Pension System.

12 “(b)(1) Except as provided in paragraph (2) of this sub-
13 section, each employee and Member shall be a participant in
14 the System.

15 “(2)(A) The Office may exclude from the operation of
16 this chapter an employee or group of employees in or under
17 an Executive agency whose employment is temporary or
18 intermittent, except an employee whose employment is part-
19 time career employment (as defined in section 8401(2) of this
20 title).

21 “(B) The Architect of the Capitol may exclude from the
22 operation of this chapter an employee under the Office of the
23 Architect of the Capitol whose employment is temporary or
24 of uncertain duration.

1 “(C) The Librarian of Congress may exclude from the
2 operation of this chapter an employee under the Library of
3 Congress whose employment is temporary or of uncertain du-
4 ration.

5 “§ 8402. Relationship to the Social Security Act

6 “Except as otherwise provided in this chapter, the ben-
7 efits payable under the System are in addition to the benefits
8 payable under the Social Security Act.

9 “SUBCHAPTER II—BASIC PLAN

10 “§ 8411. Entitlement to immediate retirement

11 “(a) An employee or a Member who is separated from
12 Government employment after becoming 55 years of age and
13 completing 10 years of service is entitled to an immediate
14 annuity.

15 “(b) An employee or a Member who is separated from
16 Government employment after becoming 62 years of age and
17 completing 5 years of service is entitled to an immediate an-
18 nuity.

19 “(c) An employee who is separated from Government
20 employment after completing 25 years of service as a law
21 enforcement officer or firefighter, or any combination of such
22 service totaling at least 25 years, is entitled to an immediate
23 annuity.

1 “(d) An employee who is separated from Government
2 employment after completing 25 years as an air traffic con-
3 troller is entitled to an immediate annuity.

4 “(e)(1) Except as provided in paragraphs (2) and (3) of
5 this subsection, any employee who has completed 25 years of
6 service, or is not less than 50 years of age and has completed
7 20 years of service, and who—

8 “(A) is separated from Government employment
9 involuntarily, except by removal for cause on charges
10 of misconduct or delinquency, or

11 “(B) while serving in a geographic area designat-
12 ed by the Director, is voluntarily separated from Gov-
13 ernment employment during a period that (as deter-
14 mined by the Director)—

15 “(i) the agency in which the employee is
16 serving is undergoing a major reorganization, a
17 major reduction in force, or a major transfer of
18 function, and

19 “(ii) a significant percentage of the total
20 number of employees serving in such agency will
21 be separated or subject to an immediate reduction
22 in the rate of basic pay (without regard to sub-
23 chapter VI of chapter 53 of this title or compara-
24 ble provisions),

25 is entitled to an immediate annuity.

1 “(2) An employee described in paragraph (1)(A) of this
2 subsection is not entitled to an annuity under this subsection
3 if the employee has declined a reasonable offer of another
4 position in the employee's agency for which the employee is
5 qualified and the offered position is not lower than 2 grades
6 or pay levels below the employee's grade or pay level and is
7 within the employee's commuting area.

8 “(3) Paragraph (1) of this subsection shall not apply to a
9 firefighter, law enforcement officer, or air traffic controller
10 who has completed 25 years of service.

11 “(f) An annuity authorized by this section is computed
12 under sections 8413 through 8415 of this title.

13 “§ 8412. Entitlement to deferred retirement

14 “(a) A participant who is under 55 years of age and
15 separates from Government employment after completing 10
16 years of service is entitled to an annuity to commence on or
17 after the date the participant becomes 55 years of age but not
18 later than the date the participant becomes 62 years of age,
19 as elected by the participant under rules prescribed by the
20 Office.

21 “(b) A participant who is under 62 years of age and
22 separates from Government employment after completing 5
23 years of service and before completing 10 years of service is
24 entitled to an annuity to commence on the date the partici-
25 pant becomes 62 years of age.

1 “(e) An annuity authorized by this section is computed
2 under sections 8413 through 8415 of this title.

3 “§ 8413. Computation of annuity

4 “(a)(1) Except as provided in section 8414 or 8415 of
5 this title, the amount of the annuity an annuitant is entitled
6 to receive under this subchapter shall be equal to the product
7 of 1 percent of the former participant's average pay (while
8 serving as an employee or Member) multiplied by the partici-
9 pant's total service.

10 “(2) For the purposes of computing the amount of an
11 annuity under paragraph (1) of this subsection, the total serv-
12 ice of a participant who separates from Government employ-
13 ment entitled to an immediate annuity or who dies leaving a
14 survivor or survivors entitled to a survivor annuity under this
15 chapter includes days of unused sick leave credited to the
16 participant under a formal leave system to the same extent
17 that unused sick leave is credited in computing an annuity of
18 a person who is subject to subchapter III of chapter 83 of
19 this title, as provided in section 8339(m) of this title.

20 “(b)(1) A former participant who is entitled to receive
21 an annuity under subsection (e) or (d) of section 8411 of this
22 title and is at least 55 years of age and not more than 62
23 years of age shall be entitled to receive an annuity supple-
24 ment, in addition to the amount of the annuity computed

1 under subsection (a) of this section, while the former partici-
2 pant is under 62 years of age.

3 “(2) The amount of the annuity supplement payable to a
4 former participant under paragraph (1) of this subsection
5 shall be equal to the estimated amount of the benefits that—

6 “(A) the former participant would be entitled to
7 receive under title II of the Social Security Act if the
8 participant were 62 years of age on the date the annu-
9 ity referred to in such paragraph commences; and

10 “(B) is attributable to service referred to in sec-
11 tion 8411(e) or 8411(d) of this title, as the case may
12 be,

13 computed on the date such annuity commences and increased
14 as provided in paragraph (3) of this subsection.

15 “(3) Effective on January 1 of each year, the amount of
16 the annuity supplement payable to a former participant under
17 this subsection shall be increased by the percentage increase,
18 if any, in the SSA average wage index (as defined in section
19 215(i)(1)(G) of the Social Security Act) published for Novem-
20 ber of the preceding year over such index published for No-
21 vember of the next preceding year.

22 “(e) In computing under this section the annuity of an
23 individual who has performed service on less than a full-time
24 basis, such service shall be credited on a proportional basis
25 equal to the fraction that such service is of full-time service,

1 and the annual rate of basic pay that would be payable for
2 full-time service in the position shall be deemed to be the rate
3 of basic pay.

4 **~~“§ 8414. Reduction for early retirement~~**

5 ~~“The annuity computed under section 8413(a) of this~~
6 ~~title (without regard to this section or section 8415 of this~~
7 ~~title)—~~

8 ~~“(1) for an annuitant, other than an annuitant re-~~
9 ~~ferred to in paragraph (2) or (3) of this section, who is~~
10 ~~under 62 years of age on the date on which the annu-~~
11 ~~itant’s annuity commences shall be reduced by one-~~
12 ~~sixth of 1 percent for each month that the annuitant is~~
13 ~~under such age on such date;~~

14 ~~“(2) for an annuitant, other than an annuitant en-~~
15 ~~titled to an immediate annuity under section 8411(e) of~~
16 ~~this title and an annuitant referred to in paragraph (3)~~
17 ~~of this subsection, who is at least 55 years of age and~~
18 ~~is under 62 years of age on the date on which the an-~~
19 ~~nuitant’s annuity commences and has not completed 30~~
20 ~~years of service shall be reduced by five-twelfths of 1~~
21 ~~percent for each month that the annuitant is under 62~~
22 ~~years of age on such date; and~~

23 ~~“(3) for an annuitant who is entitled to an imme-~~
24 ~~diate annuity under subsection (e) or (d) of section~~
25 ~~8411 of this title or who separated from Government~~

1 employment as a military reserve technician shall be
2 reduced by five-twelfths of 1 percent for each month
3 that the annuitant is under 55 years of age on the date
4 on which the annuitant's annuity commences.

5 **"§ 8415. Reduction for survivor annuities**

6 "(a) The annuity of an annuitant computed under sec-
7 tion 8413 of this title and, if appropriate, under section 8414
8 of this title shall be reduced by an estimated amount such
9 that the actuarial present value of the retirement benefits ex-
10 pected to be payable to the annuitant under this subchapter
11 and all survivor benefits expected to be payable out of the
12 Fund with respect to the annuitant is equal to the actuarial
13 present value of the retirement benefits that would be expect-
14 ed to be payable under this subchapter to the annuitant pur-
15 suant to the method referred to in section 8416(a)(2)(A) of
16 this title, as determined under regulations prescribed by the
17 Office.

18 "(b) A reduction in the annuity of an annuitant pursuant
19 to subsection (a) of this section shall be adjusted, as appropri-
20 ate to carry out such subsection, to reflect any change in
21 circumstances relating to entitlement to a survivor annuity,
22 including any election made pursuant to section 8434(a),
23 8436(b), or 8436(c) of this title.

1 **“§ 8416. Methods of Payment**

2 “(a)(1) The Office shall prescribe methods of payment of
3 annuities under this subchapter.

4 “(2) The methods of payment prescribed under para-
5 graph (1) of this subsection shall include, but not be limited
6 to—

7 “(A) a method which provides for the payment of
8 a monthly annuity only to an annuitant during the life
9 of the annuitant;

10 “(B) a method which provides for the payment of
11 a monthly annuity to an annuitant and a monthly sur-
12 vivor annuity equal to 50 percent of the annuitant's
13 annuity on the date of the annuitant's death (computed
14 without regard to an election under section 8417(a) of
15 this title) to the annuitant's surviving spouse, if any;
16 and

17 “(C) a method which provides for the payment of
18 a monthly annuity to an annuitant and a monthly sur-
19 vivor annuity equal to 50 percent of the annuitant's
20 annuity on the date of the annuitant's death (computed
21 without regard to an election under section 8417(a) of
22 this title) to an individual who is designated by the an-
23 nuitant and who has an insurable interest in the annui-
24 tant.

25 “(b)(1) Subject to paragraphs (2) and (3) of this subsec-
26 tion—

1 “(A) under such regulations as the Office shall
2 prescribe, a participant or former participant who is
3 applying for an annuity under this subchapter to com-
4 mence shall elect one of the methods of payment pre-
5 scribed by the Office under subsection (a) of this sec-
6 tion; and

7 “(B) the annuity of an annuitant under this sub-
8 chapter shall be paid in accordance with the method of
9 payment elected by the annuitant pursuant to subpara-
10 graph (A) of this paragraph.

11 “(2)(A) A participant or former participant who is mar-
12 ried on the date on which the participant or former partici-
13 pant applies for an annuity under this subchapter to com-
14 mence may elect a method of payment other than the method
15 described in subsection (a)(2)(B) of this section only if the
16 participant or former participant and the spouse of the partici-
17 pant or former participant jointly waive a survivor annuity
18 under the method described in such subsection (a)(2)(B).

19 “(B) A waiver shall not be effective for the purpose of
20 subparagraph (A) of this paragraph unless the waiver is made
21 in writing, is notarized, and is filed with the Office on or
22 before the date the annuity to which the waiver relates com-
23 mences.

24 “(C) A waiver made in accordance with this paragraph
25 shall be irrevocable.

1 ~~“(3) In the case of an annuitant who is subject to para-~~
2 ~~graph (2)(A) of this subsection and fails to make an election~~
3 ~~under paragraph (1) of this subsection, an annuity and survi-~~
4 ~~vor annuity shall be paid under the method of payment de-~~
5 ~~scribed in subsection (a)(2)(B) of this section.~~

6 ~~“(4) A participant or former participant may elect the~~
7 ~~method prescribed under subsection (a)(2)(C) of this section~~
8 ~~only if the participant or former participant is in good health~~
9 ~~on the date the election is made, as determined by the Office.~~
10 ~~“§ 8417. Level benefits option~~

11 ~~“(a) Under regulations prescribed by the Office, an an-~~
12 ~~nuity payable under this subchapter to a participant who is~~
13 ~~separating from Government employment entitled to an im-~~
14 ~~mediate annuity under subsection (a) of section 8411 of this~~
15 ~~title and is less than 62 years of age may be adjusted as~~
16 ~~provided in subsection (b) of this section, if elected by the~~
17 ~~participant on or before the date of separation.~~

18 ~~“(b)(1) Subject to paragraph (2) of this subsection, an~~
19 ~~annuity payable under this subchapter to an annuitant who~~
20 ~~has made an election authorized by subsection (a) of this sec-~~
21 ~~tion may be increased during the period the annuitant is not~~
22 ~~less than 55 years of age and is less than 62 years of age and~~
23 ~~may be reduced on and after the date the annuitant is not~~
24 ~~less than 62 years of age as appropriate to provide the annui-~~
25 ~~tant an annuity under this subchapter, during each month of~~

1 such period, in an amount which approximately equals the
2 total amount of the monthly benefits payable to the annuitant
3 under this subchapter and section 202(a) of the Social Securi-
4 ty Act after such date.

5 “(2) The actuarial present value of the benefits expected
6 to be paid under this subchapter to the annuitant as provided
7 in paragraph (1) of this subsection on and after the date the
8 annuitant becomes 55 years of age may not exceed the actu-
9 arial present value of the benefits that would be expected to
10 be paid under this subchapter to such participant on and after
11 such date if the adjustments authorized by such paragraph
12 were not made, as determined under regulations prescribed
13 by the Office.

14 “§ 8418. Funding

15 “(a)(1) Each agency of the Government employing a
16 participant shall contribute to the Fund an amount equal to
17 the sum of—

18 “(A) the normal cost, as determined by the Office,
19 of (i) each participant who is employed by the agency,
20 and (ii) each disabled participant who is entitled to
21 benefits under section 8442(a) of this title and was em-
22 ployed by the agency on the date the participant
23 became disabled (computed using average pay as in-
24 creased in accordance with section 8442(b)(2)(C) of this
25 title); and

1 ~~“(B) the normal cost, as determined by the Office,~~
2 ~~of the annuity supplement under section 8413(b) of this~~
3 ~~title for each law enforcement officer, firefighter, and~~
4 ~~air traffic controller who is employed by the agency.~~

5 ~~“(2) The contribution required by paragraph (1) of~~
6 ~~this subsection to be made by an agency shall be made~~
7 ~~from the appropriation or fund used to pay the agen-~~
8 ~~cy’s participants, or, in the case of an elected partici-~~
9 ~~pant, from an appropriation or fund available for pay-~~
10 ~~ment of other salaries of the office or establishment of~~
11 ~~the participant. In the case of a participant in the leg-~~
12 ~~islative branch who is paid by the Clerk of the House~~
13 ~~of Representatives, contributions for the benefit of such~~
14 ~~participant shall be paid from the contingent fund of~~
15 ~~the House of Representatives.~~

16 ~~“(b)(1) The Office shall compute—~~

17 ~~“(A) the amount of the supplemental liability of~~
18 ~~the Fund relating to participants and annuitants other~~
19 ~~than participants and annuitants referred to in subpara-~~
20 ~~graph (B) of this paragraph, and~~

21 ~~“(B) the amount of the supplemental liability of~~
22 ~~the Fund relating to participants and annuitants who~~
23 ~~are active or retired officers or employees of the~~
24 ~~United States Postal Service,~~

1 as of the close of each fiscal year beginning after September
2 30, 1987.

3 “(2) The amounts of any supplemental liability—

4 “(A) computed pursuant to paragraph (1)(A) of
5 this subsection with respect to participants and annu-
6 itants referred to in such paragraph (1)(A) of this sub-
7 section, and

8 “(B) computed pursuant to paragraph (1)(B) of
9 this subsection with respect to participants and annu-
10 itants referred to in such paragraph (1)(B),
11 shall each be amortized in thirty annual installments.

12 “(3) At the end of each fiscal year, the Office shall
13 notify—

14 “(A) the Secretary of the Treasury of the amount
15 of the annual installment computed under paragraph
16 (2)(A) of this subsection for such fiscal year, and

17 “(B) the Postmaster General of the United States
18 of the amount of the annual installment computed pur-
19 suant to paragraph (2)(B) of this subsection for such
20 fiscal year.

21 “(4)(A) Before closing the accounts for a fiscal year, the
22 Secretary of the Treasury shall credit the amount of the
23 annual installment computed for such fiscal year pursuant to
24 paragraph (2)(A) to the Fund, as a Government contribution,

1 out of any money in the Treasury of the United States not
2 otherwise appropriated.

3 “(B) Upon receiving a notice required by paragraph
4 (3)(B) of this subsection, the United States Postal Service
5 shall pay to the Fund the amount of the annual installment
6 specified in the notice.

7 “(5) For the purpose of carrying out paragraph (1) of
8 this subsection with respect to any fiscal year, the Office
9 may—

10 “(A) require the Board of Actuaries of the Civil
11 Service Retirement System to make actuarial determi-
12 nations and valuations, make recommendations, and
13 maintain records in the same manner as provided in
14 section 8347(f) of this title; and

15 “(B) may use the latest actuarial determinations
16 and valuations made by such Board of Actuaries.

17 **“§ 8410. Funding of annuity attributable to military service**

18 “(a) Except in the case of an individual making an elec-
19 tion under section 8471(a)(1)(A) of this title, a participant’s
20 or former participant’s service shall include credit for military
21 service as provided in section 8332(e) of this title without
22 regard to whether the participant or former participant has
23 made a deposit covering such military service as provided in
24 section 8334(j) of this title.

1 “(b) Before closing the accounts for a fiscal year, the
2 Secretary of the Treasury shall reimburse the Fund from
3 sums in the Department of Defense Military Retirement
4 Fund (established by section 1461(a) of title 10), which are
5 hereby made available to pay the reimbursement, for the
6 normal cost relating to the creditable military service of em-
7 ployees and Members who became participants during such
8 fiscal year, actuarially adjusted to the date of payment, as
9 determined by the Office.

10 “(c) At the end of each fiscal year the Office shall com-
11 pute the amount of the reimbursement required by subsection
12 (b) of this section for the fiscal year and shall notify the Sec-
13 retary of the Treasury of that amount.

14 ~~“SUBCHAPTER III—THRIFT SAVINGS PLAN~~

15 ~~“§ 8421. Contributions~~

16 ~~“(a)(1) Each participant may contribute to the Thrift~~
17 ~~Savings Fund in any year an amount not exceeding 10 per-~~
18 ~~cent of the participant's annual rate of basic pay.~~

19 ~~“(2) Each participant receiving disability benefits under~~
20 ~~subchapter V of this chapter may, until becoming 62 years of~~
21 ~~age (in the case of a person who is disabled within the mean-~~
22 ~~ing of section 8441(4)(A) of this title) or until becoming 55~~
23 ~~years of age (in the case of a person who is disabled within~~
24 ~~the meaning of section 8441(4)(B) of this title), contribute to~~
25 ~~the Thrift Savings Fund in any year an amount not exceed-~~

1 ing 10 percent of the amount of the former participant's dis-
2 ability benefits payable under such subchapter during such
3 year.

4 “(3) Any contribution under this subsection shall be
5 made only pursuant to a program of regular contributions
6 under regulations prescribed by the Board.

7 “(4) At least once each year, a participant may modify
8 the amount contributed pursuant to paragraph (1) or (2) of
9 this subsection, as the case may be, under regulations pre-
10 scribed by the Board.

11 “(b) The employing agency of a participant who contrib-
12 utes to the Thrift Savings Fund under subsection (a) of this
13 section for any pay period, or, in the case of a disabled partic-
14 ipant who contributes to such fund under such subsection for
15 any disability benefits payment period, the employing agency
16 of the participant on the date the participant became disabled
17 (as defined in section 8441(4) of this title), shall contribute to
18 the Thrift Savings Fund for the benefit of such participant or
19 disabled participant at the end of such period an amount
20 equal to such portion of the amount of the participant's con-
21 tribution as does not exceed 5 percent of the amount of the
22 gross pay or gross disability benefits, as the case may be,
23 payable for such period.

24 “(c) The sums required to be contributed to the Thrift
25 Savings Fund by an employing agency under subsection (b) of

1 this section for the benefit of a participant shall be paid from
2 the appropriations or funds available to such agency to pay
3 the basic pay of participants or, in the case of an elected
4 participant, from an appropriation or fund available for pay-
5 ment of other salaries of the participant's office or establish-
6 ment. In the case of a participant in the legislative branch
7 who is paid by the Clerk of the House of Representatives,
8 contributions for the benefit of such participant shall be paid
9 from the contingent fund of the House of Representatives.

10 “(d) For purposes of the Internal Revenue Code of
11 1954—

12 “(1) any amount of the participant's pay which is
13 contributed to the Thrift Savings Fund, and the
14 amount of the employing agency's matching contribu-
15 tions, shall not be included in the gross income of the
16 participant; and

17 “(2) the Thrift Savings Fund shall be treated, for
18 purposes of determining when amounts in such Fund
19 are included in the income of any participant, as de-
20 scribed in section 401(a) of such Code.

21 “(e) Subsection (d)(1) of this section shall not be con-
22 strued to provide that any amount of the participant's pay
23 which is contributed to the Thrift Savings Fund shall not be
24 included in the term ‘wages’ for purposes of section 209 of

1 the Social Security Act or section 3121(a) of the Internal
2 Revenue Code of 1954.

3 ~~“§ 8422. Vesting~~

4 ~~“(a)(1) A participant who separates from Government~~
5 ~~employment shall be entitled to an amount equal to—~~

6 ~~“(A) the total amount of the contributions made~~
7 ~~under section 8421(a) of this title plus the total amount~~
8 ~~of the net earnings in the Thrift Savings Fund, or~~
9 ~~minus the total amount of the net losses, attributable~~
10 ~~to such contributions; and~~

11 ~~“(B) the applicable percentage of the amount~~
12 ~~equal to the total amount contributed to the Thrift~~
13 ~~Savings Fund for the benefit of the participant under~~
14 ~~section 8421(b) of this title plus the total amount of~~
15 ~~the net earnings in the Thrift Savings Fund, or minus~~
16 ~~the total amount of the net losses, attributable to such~~
17 ~~contributions, as provided in subsection (b) of this sec-~~
18 ~~tion.~~

19 ~~“(2) The amount to which a participant is entitled under~~
20 ~~paragraph (1) of this subsection shall be payable in accord-~~
21 ~~ance with the election made by the participant pursuant to~~
22 ~~section 8423 of this title.~~

23 ~~“(b)(1) For the purpose of subsection (a)(1)(B) of this~~
24 ~~section, except as provided in paragraph (2) of this subsec-~~
25 ~~tion, the applicable percentage for a participant separating~~

1 from Government employment after having been a partici-
 2 pant in the System for a period set forth under column I of
 3 the table below is the percentage set forth under column II of
 4 the table below opposite the description of such period:

Column I Period for which the participant has been a participant in the System:	Column II Applicable percentage:
Less than 1 year	0
Not less than 1 year, but less than 2 years	20
Not less than 2 years, but less than 3 years	40
Not less than 3 years, but less than 4 years	60
Not less than 4 years, but less than 5 years	80
Not less than 5 years	100.

5 “(2) For the purposes of subsection (a)(1)(B) of this
 6 section—

7 “(A) the percentage applicable in the case of any
 8 participant who dies while employed by the Govern-
 9 ment shall be 100 percent; and

10 “(B) in the case of a participant making contribu-
 11 tions under section 8421(a)(2) of this title, the period
 12 for which the person has been a participant in the
 13 System shall include periods for which such contribu-
 14 tions were made.

15 “(c) When an election is made by a participant under
 16 section 8422(c) of this title, the amount equal to the excess
 17 of—

18 “(1) the sum of—

19 “(A) the amounts contributed to the Thrift
 20 Savings Fund with respect to the participant
 21 under section 8421 of this title; and

1 “(B) the net earnings in the Thrift Savings
2 Fund attributable to such contributions; over

3 “(2) the amount in the Thrift Savings Fund paid
4 or reserved for payment to or with respect to the par-
5 ticipant pursuant to section 8423(e) of this title;
6 shall be transferred to the Treasury of the United States for
7 credit to Miscellaneous Receipts.

8 “§ 8423. Entitlement and elections relating to entitlement

9 “(a) Any participant who separates from Government
10 employment entitled to an immediate annuity under section
11 8411 of this title is entitled and may elect—

12 “(1) to receive an immediate annuity from the
13 Thrift Savings Fund;

14 “(2) to defer the commencement of the payment
15 of an annuity from the Thrift Savings Fund until such
16 date as the participant specifies;

17 “(3) to withdraw, in one or more payments, the
18 amount of the balance credited to the participant's ac-
19 count in the Thrift Savings Fund; or

20 “(4) to transfer the amount of the balance in the
21 account to an individual retirement account or other
22 qualified plan (within the meaning of the Internal Rev-
23 enue Code of 1954) of the participant.

1 “(b) Any participant who separates from Government
2 employment entitled to a deferred annuity under section
3 8412 of this title is entitled and may elect—

4 “(1) to receive an annuity from the Thrift Savings
5 Fund to commence on the first date the participant is
6 entitled to receive the deferred annuity;

7 “(2) to defer the commencement of the payment
8 of an annuity from the Thrift Savings Fund until a
9 date after the first date the participant is entitled to re-
10 ceive the deferred annuity, as specified by the partici-
11 pant;

12 “(3) to withdraw in one or more payments, on or
13 after the first date the participant is entitled to receive
14 the deferred annuity, the amount of the balance cred-
15 ited to the participant's account in the Thrift Savings
16 Fund; or

17 “(4) to transfer the amount of the balance in the
18 account to an individual retirement account or other
19 qualified plan (within the meaning of the Internal Rev-
20 enue Code of 1954) of the participant.

21 “(c) Any participant who separates from Government
22 employment before becoming entitled to an annuity under
23 section ~~8411~~ or 8412 of this title is entitled and may elect—

1 “(1) to receive an annuity from the Thrift Savings
2 Fund to commence when the participant becomes 62
3 years of age;

4 “(2) to withdraw, in one or more payments, the
5 amount computed under section 8422(a)(1) of this title,
6 payable when the participant becomes 62 years of age;
7 or

8 “(3) to transfer such amount to an individual re-
9 tirement account or other qualified plan (within the
10 meaning of the Internal Revenue Code of 1954) of the
11 participant.

12 “(d)(1) Subject to paragraph (2) of this subsection, any
13 participant making an election pursuant to subsection (a)(2)
14 or (b)(2) of this section may modify the date specified in the
15 election or in a previous modification under this subsection.

16 “(2) Any modification of an election under paragraph (1)
17 of this subsection may not be made on or after the date speci-
18 fied in the election or the latest modification made under such
19 paragraph and may not specify a date for the commencement
20 of annuity payments earlier than one month after the date the
21 modification is filed with the Executive Director.

22 “§ 8424. Annuities: methods of payment; election; and computation

23 “(a)(1) The Board shall prescribe methods of payment of
24 annuities under this subchapter.

1 “(2) The methods of payment prescribed under para-
2 graph (1) of this subsection shall include, but not be limited
3 to—

4 “(A) a method which provides for the payment of
5 a monthly annuity only to an annuitant during the life
6 of the annuitant;

7 “(B) a method which provides for the payment of
8 a monthly annuity to an annuitant for the joint lives of
9 the annuitant and the spouse of the annuitant and an
10 appropriate monthly annuity to the one of them who
11 survives the other of them for the life of the survivor;

12 “(C) a method described in subparagraph (A) of
13 this paragraph which provides annual increases in the
14 amount of the annuity payable;

15 “(D) a method described in subparagraph (B) of
16 this paragraph which provides annual increases in the
17 amount of the annuity payable; and

18 “(E) a method providing for the payment of a
19 monthly annuity—

20 “(i) to the annuitant for the joint lives of the
21 annuitant and an individual, designated by the an-
22 nuitant under regulations prescribed by the Board,
23 who has an insurable interest in the annuitant;
24 and

1 “(ii) to the one of them who survives the
2 other of them for the life of the survivor.

3 “(b) Subject to paragraph (2) of this subsection, under
4 such regulations as the Board shall prescribe, an annuitant
5 electing under section 8423 of this title to receive an annuity
6 from the Thrift Savings Fund shall elect, on or before the
7 date on which the annuitant's annuity under this subchapter
8 commences, one of the methods of payment prescribed by the
9 Board under subsection (a) of this section.

10 “(c) The amount of an annuity payable under this sub-
11 chapter pursuant to the method elected under subsection (b)
12 of this section shall be determined on an actuarial basis under
13 regulations prescribed by the Board.

14 “§ 8425. Administrative provisions relating to payments and elections

15 “(a) The Executive Director shall make or provide for
16 payments and transfers in accordance with an election of a
17 participant under section 8423 or 8424(b) of this title.

18 “(b) Any election under section 8423 or 8424(b) of this
19 title shall be in writing and shall be filed with the Executive
20 Director in accordance with regulations prescribed by the
21 Board.

22 “(c) Notwithstanding any other provision of this section,
23 an election or modification of an election under any provision
24 of this subchapter shall not be effective if the election or
25 modification would result in a violation of the terms of an

1 applicable court decree of divorce, annulment, or legal sepa-
2 ration, or the terms of any court order or court-approved
3 property settlement agreement incident to a court decree of
4 divorce, annulment, or legal separation, as determined by the
5 Executive Director.

6 **~~“§ 8426. Thrift Savings Fund~~**

7 ~~“(a) There is established in the Treasury of the United~~
8 ~~States a Thrift Savings Fund.~~

9 ~~“(b) The Thrift Savings Fund consists of the sum of all~~
10 ~~amounts contributed under section 8421 of this title in-~~
11 ~~creased by the total net earnings from investments of sums in~~
12 ~~the Thrift Savings Fund or reduced by the total net losses~~
13 ~~from investments of the Thrift Savings Fund.~~

14 ~~“(c) The sums in the Thrift Savings Fund are appropri-~~
15 ~~ated and shall remain available without fiscal year limita-~~
16 ~~tion—~~

17 ~~“(1) to invest under section 8427 of this title;~~

18 ~~“(2) to pay benefits under this subchapter;~~

19 ~~“(3) to pay the administrative expenses of the~~
20 ~~Civil Service Thrift Investment Management System~~
21 ~~prescribed in subchapter VIII of this chapter; and~~

22 ~~“(4) to make loans to participants as authorized~~
23 ~~under subsection (c) of this section.~~

24 ~~“(d)(1) Except as provided in paragraph (2) of this sub-~~
25 ~~section, sums in the Thrift Savings Fund are not subject to~~

1 execution, levy, attachment, garnishment, or other legal
2 process.

3 “(2) Moneys due or payable from the Thrift Savings
4 Fund to any individual and, in the case of an individual who
5 is a participant, moneys which the individual would be enti-
6 tled to receive under section 8422 of this title upon separa-
7 tion from Government employment shall be subject to legal
8 process for the enforcement of the individual's legal obliga-
9 tions to provide child support or make alimony payments as
10 provided in section 459 of the Social Security Act (42 U.S.C.
11 659) or to pay any indebtedness of the individual to the
12 United States.

13 “(e) The Board shall establish a program to make loans
14 from the Thrift Savings Fund to a participant in case of fi-
15 nancial hardship and shall prescribe regulations to carry out
16 such program. Any such loan shall be made only out of sums
17 contributed to the Thrift Savings Fund by the participant and
18 net earnings attributable to such sums.

19 “(f) The sums in the Thrift Savings Fund shall not be
20 appropriated and may not be used for any purpose other than
21 the purposes specified in this section.

22 “§ 8427. Investment of Thrift Savings Fund

23 “(a) For the purposes of this section—

1 “(1) the term ‘Common Stock Index Investment
2 Fund’ means the Common Stock Investment Fund es-
3 tablished under subsection (b)(1)(C) of this section;

4 “(2) the term ‘equity capital’ means common and
5 preferred stock, surplus, undivided profits, contingency
6 reserves, and other capital reserves;

7 “(3) the term ‘Fixed Income Investment Fund’
8 means the Fixed Income Investment Fund established
9 under subsection (b)(1)(B) of this section;

10 “(4) the term ‘Government Securities Investment
11 Fund’ means the Government Securities Investment
12 Fund established under subsection (b)(1)(A) of this sec-
13 tion;

14 “(5) the term ‘net worth’ means capital, paid-in
15 and contributed surplus, unassigned surplus, contingen-
16 cy reserves, group contingency reserves, and special
17 reserves;

18 “(6) the term ‘plan’ means an employee benefit
19 plan, as defined in section 3(3) of the Employee Retire-
20 ment Income Security Act of 1974 (29 U.S.C.
21 1002(3));

22 “(7) the term ‘qualified professional asset manag-
23 er’ means—

1 “(A) a bank, as defined in section 202(a)(2)
2 of the Investment Advisers Act of 1940 (15
3 U.S.C. 80b-2(a)(2)) which—

4 “(i) has the power to manage, acquire,
5 or dispose of assets of a plan; and

6 “(ii) has, as of the last day of its latest
7 fiscal year ending before the date of a deter-
8 mination for the purpose of this clause,
9 equity capital in excess of \$1,000,000;

10 “(B) a savings and loan association, the ac-
11 counts of which are insured by the Federal Sav-
12 ings and Loan Insurance Corporation, which—

13 “(i) has applied for and been granted
14 trust powers to manage, acquire, or dispose
15 of assets of a plan by a State or Government
16 authority having supervision over savings
17 and loan associations; and

18 “(ii) has, as of the last day of its latest
19 fiscal year ending before the date of a deter-
20 mination for the purpose of this clause,
21 equity capital or net worth in excess of
22 \$1,000,000;

23 “(C) an insurance company which—

1 “(i) is qualified under the laws of more
2 than one State to manage, acquire, or dis-
3 pose of any assets of a plan;

4 “(ii) has, as of the last day of its latest
5 fiscal year ending before the date of a deter-
6 mination for the purpose of this clause, net
7 worth in excess of \$1,000,000; and

8 “(iii) is subject to supervision and exam-
9 ination by a State authority having supervi-
10 sion over insurance companies; or

11 “(D) an investment adviser registered under
12 section 203 of the Investment Advisers Act of
13 1940 (15 U.S.C. 80b-3) if the investment adviser
14 has, on the last day of its latest fiscal year ending
15 before the date of a determination for the purpose
16 of this subparagraph, total client assets under its
17 management and control in excess of
18 \$50,000,000, and—

19 “(i) the investment adviser has, on such
20 day, shareholder's or partner's equity in
21 excess of \$750,000; or

22 “(ii) payment of all of the investment
23 adviser's liabilities, including any liabilities
24 which may arise by reason of a breach or
25 violation of a duty described in section 8497

1 of this title, is unconditionally guaranteed
2 by—

3 “(I) a person who directly or indi-
4 rectly, through one or more interme-
5 diaries, controls, is controlled by, or is
6 under common control with the invest-
7 ment adviser and who has, on the last
8 day of the person’s latest fiscal year
9 ending before the date of a determina-
10 tion for the purpose of this clause,
11 shareholder’s or partner’s equity in an
12 amount which, when added to the
13 amount of the shareholder’s or partner’s
14 equity of the investment adviser on such
15 day, exceeds \$750,000;

16 “(II) a qualified professional asset
17 manager described in subparagraph (A),
18 (B), or (C) of this paragraph; or

19 “(III) a broker or dealer registered
20 under section 15 of the Securities Ex-
21 change Act of 1934 (15 U.S.C. 78e)
22 that has, on the last day of the broker’s
23 or dealer’s latest fiscal year ending
24 before the date of a determination for

1 the purpose of this clause, net worth in
2 excess of \$750,000; and

3 “(8) the term ‘shareholder’s or partner’s equity’,
4 when used in paragraph (7)(D) of this subsection with
5 respect to an investment adviser or a person who is af-
6 filiated with the investment adviser in a manner de-
7 scribed in clause (ii)(I) of such paragraph (7)(D), means
8 the equity shown in the most recent balance sheet pre-
9 pared for such investment adviser or affiliated person,
10 in accordance with generally accepted accounting prin-
11 ciples, within 2 years before the date on which the in-
12 vestment adviser’s status as a qualified professional
13 asset manager is determined for the purposes of this
14 section.

15 “(b)(1) The Board shall establish—

16 “(A) a Government Securities Investment Fund
17 under which sums in the Thrift Savings Fund are in-
18 vested in securities of the United States Government
19 issued as provided in subsection (g) of this section;

20 “(B) a Fixed Income Investment Fund under
21 which sums in the Thrift Savings Fund are invested in
22 insurance contracts, certificates of deposits, or other in-
23 struments or obligations which (i) are issued or selected
24 by qualified professional asset managers, and (ii) return
25 the amount invested and pay interest, at a specified

1 rate or rates, on that amount during a specified period
2 of time;

3 “(C) a Common Stock Index Investment Fund as
4 provided in paragraph (2) of this subsection; and

5 “(D) such other investment funds as the Board
6 determines to be appropriate for the purposes of this
7 subchapter.

8 “(2)(A) The Board shall define an index which—

9 “(i) consists of all of the common stocks that are
10 publicly listed and traded on one or more national se-
11 curities exchanges, or

12 “(ii) is a commonly recognized index comprised of
13 common stock the aggregate market value of which is
14 at least 50 percent of the aggregate market value of
15 all common stocks that are publicly listed and traded
16 on one or more national securities exchanges.

17 “(B) The Common Stock Investment Fund shall be in-
18 vested in each stock that is included in the index defined
19 under subparagraph (A) of this paragraph such that, to the
20 extent practicable, the percentage of the Common Stock In-
21 vestment Fund that is invested in that stock is the same as
22 the percentage determined by dividing the aggregate market
23 value of all shares of that stock by the aggregate market
24 value of all shares of all stock included in such index.

1 “(e)(1) The Executive Director shall invest in the Gov-
2 ernment Securities Investment Fund the sums which are in
3 the Thrift Savings Fund, are available for investment, and
4 are not to be invested in an investment fund referred to in
5 subsection (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this section pur-
6 suant to an election made under subsection (d) of this section.

7 “(2) Except as provided in subsection (e) of this section,
8 the Executive Director shall invest sums available in the
9 Thrift Savings Fund for investment as provided in elections
10 made under subsection (d) of this section.

11 “(d)(1) Except as provided in subsection (e) of this sec-
12 tion, at least once each year, a participant or former partici-
13 pant may elect the investment funds referred to in subsection
14 (b) of this section into which the sums in the Thrift Savings
15 Fund credited to the account of such participant or former
16 participant are to be invested or reinvested.

17 “(2) The election may be made by a participant or
18 former participant under paragraph (1) of this subsection only
19 in accordance with regulations prescribed by the Board and
20 within such period after the date the participant's or former
21 participant's annual statement is transmitted to the partici-
22 pant or former participant pursuant to section 8428(b) of this
23 title as the Board shall prescribe in such regulations.

24 “(e)(1)(A) The Executive Director shall invest a per-
25 centage of the total amount that—

1 “(i) is contributed to the Thrift Savings Fund by a
2 participant under section 8421(a) of this title during a
3 year described under column I of the first table of min-
4 imum Government securities investments set out in
5 subparagraph (B) of this paragraph, and

6 “(ii) is available for investment,
7 in the Government Securities Investment Fund as provided
8 under column II of the table opposite the description of such
9 year.

10 “(B) For the purposes of subparagraph (A) of this para-
11 graph, the first table of minimum Government securities in-
12 vestments is as follows:

“Column I	Column II
Year:	Minimum percentage of the amounts contributed by a participant for each month of such year to be invested in the Government Securities Investment Fund:
1987.....	100
1988.....	80
1989.....	60
1990.....	40
1991.....	20.

13 “(2)(A) The Executive Director shall invest a percent-
14 age of the total amount that—

15 “(i) is contributed to the Thrift Savings Fund by
16 the Government for the benefit of a participant pursu-
17 ant to section 8421(b) of this title during a year de-
18 scribed under column I of the second table of minimum

1 Government securities investments set out in subpara-
 2 graph (B) of this paragraph, and

3 “(ii) is available for investment,
 4 in the Government Securities Investment Fund as provided
 5 under column II of the table opposite the description of such
 6 year.

7 “(B) For the purposes of subparagraph (A) of this para-
 8 graph, the second table of minimum Government securities
 9 investments is as follows:

Column I	Column II
Year:	Minimum percentage of the amounts contributed for the benefit of a participant for each month of such year to be invested in the Government Securities Investment Fund:
1987-1992.....	100
1993.....	80
1994.....	60
1995.....	40
1996.....	20.

10 “(3) All sums credited to the Thrift Savings Fund pur-
 11 suant to section 8473(b) of this title shall be invested in the
 12 Government Securities Investment Fund.

13 “(4) The sums which are invested in the Government
 14 Securities Investment Fund as required by this subsection
 15 and are returned to the Thrift Savings Fund after maturity of
 16 the securities purchased with such sums, and the amounts
 17 earned on the investment of such sums, shall be reinvested in
 18 the Government Securities Investment Fund.

1 “(f) The Secretary of the Treasury shall issue notes
2 under section 3103 of title 31 as appropriate to meet the
3 investment needs of the Thrift Savings Fund under this sec-
4 tion. The notes shall have a 2-year maturity, shall be re-
5 deemable at par, and shall bear interest at a rate equal to the
6 average market yield, computed as of the end of the calendar
7 month next preceding the date of the issue, of all 2-year
8 notes then forming a part of the public debt of the United
9 States. If the average market yield is not a multiple of $\frac{1}{8}$ of
10 1 percent, the rate of interest on the obligations shall be the
11 multiple of $\frac{1}{8}$ of 1 percent nearest the average market yield.

12 “§ 8428. Accounting

13 “(a)(1) The Executive Director shall establish and main-
14 tain an account for each participant making contributions
15 under section 8421(a) of this title.

16 “(2) The balance in the account of a participant or
17 former participant at any time is the excess of—

18 “(A) the sum of—

19 “(i) all contributions made to the Thrift Sav-
20 ings Fund by the participant or former participant
21 under section 8421(a) of this title;

22 “(ii) all contributions made to such fund for
23 the benefit of the participant or former participant
24 under section 8421(b) of this title;

1 ~~“(iii) the amounts transferred to such fund~~
2 ~~with respect to the participant or former partici-~~
3 ~~pant under section 8473(b) of this title; and~~

4 ~~“(iv) the total amount of the allocations~~
5 ~~made to and reductions made in the account pur-~~
6 ~~suant to paragraph (2) of this section; over~~

7 ~~“(B) the amounts paid out of the Thrift Savings~~
8 ~~Fund with respect to such participant or former partici-~~
9 ~~pant under this subchapter and subchapter IV of this~~
10 ~~title.~~

11 ~~“(2) Pursuant to regulations prescribed by the Board,~~
12 ~~the Executive Director shall allocate to the account of each~~
13 ~~participant or former participant an amount equal to a pro~~
14 ~~rata share of the net earnings and net losses from each in-~~
15 ~~vestment of sums in the Thrift Savings Fund attributable to~~
16 ~~sums credited to the account of such participant, reduced by~~
17 ~~an appropriate share of the administrative expenses of the~~
18 ~~Civil Service Thrift Investment Management System pre-~~
19 ~~scribed in subchapter VIII of this chapter, as determined by~~
20 ~~the Executive Director.~~

21 ~~“(b) The Executive Director shall provide each partici-~~
22 ~~pant and former participant an annual statement of the bal-~~
23 ~~ance in the participant's or former participant's account.~~

24 ~~“(c)(1) For the purposes of this subsection, the term~~
25 ~~'qualified public accountant' shall have the same meaning as~~

1 provided in section 102(a)(2)(D) of the Employee Retirement
2 Income Security Act of 1974 (29 U.S.C. 1024(a)(2)(D)).

3 “(2) The Executive Director shall annually engage, on
4 behalf of all participants, an independent qualified public ac-
5 countant, who shall conduct an examination of any accounts
6 established under subsection (a) of this section and of other
7 books and records maintained in the administration of this
8 subchapter as the accountant considers necessary to enable
9 the accountant to make the determination required by para-
10 graph (2) of this subsection. The examination shall be con-
11 ducted in accordance with generally accepted auditing stand-
12 ards and shall involve such tests of the accounts, books, and
13 records as the independent qualified public accountant consid-
14 ers necessary.

15 “(3) The independent qualified public accountant con-
16 ducting an examination under paragraph (2) of this subsection
17 shall determine whether the accounts, books, and records re-
18 ferred to in such paragraph have been maintained in conform-
19 ity with generally accepted accounting principles applied on a
20 basis consistent with the application of such principles during
21 the examination conducted under such paragraph during the
22 preceding year. The accountant shall transmit to the Board a
23 report on his examination, including his determination under
24 this paragraph.

1 ued to live and had continued to be a participant until such
2 date.

3 “(3) The amount of the survivor annuity payable under
4 paragraph (1) or (2) of this subsection to the surviving spouse
5 of a deceased participant shall be equal to 50 percent of the
6 annuity computed with respect to the deceased participant
7 pursuant to sections 8413, 8414, and 8415 of this title as if
8 the participant had retired from Government employment on
9 the day before the date of death and had elected the method
10 of payment described in section 8416(a)(2)(B) of this title.

11 “(b)(1) If a former participant dies entitled to a deferred
12 annuity under section 8412 of this title before payment of an
13 annuity under subchapter II of this chapter to the former
14 participant commences, the surviving spouse of the deceased
15 former participant is entitled to a survivor annuity payable
16 out of the Fund.

17 “(2) The amount of the survivor annuity payable under
18 paragraph (1) of this subsection to the surviving spouse of a
19 deceased former participant shall be equal to 50 percent of
20 the annuity which the deceased former participant would
21 have been entitled to receive under such section if the de-
22 ceased former participant—

23 “(A) had been 55 years of age on the day before
24 the date of death, or

1 “(B) in the case of a former participant who was
 2 55 years of age or older on such day and was not re-
 3 ceiving such annuity, had commenced to receive such
 4 deferred annuity on such day,
 5 computed under sections 8413, 8414, and 8415 of this title.

6 ~~“§ 8432. Basic plan spousal and insurable interest benefits relating to~~
 7 the death of an annuitant

8 “A survivor annuity shall be paid out of the Fund with
 9 respect to a deceased annuitant—

10 “(1) in accordance with the method of payment
 11 elected by the annuitant under section 8416 of this
 12 title;

13 “(2) as provided in subsection (b)(3) of such sec-
 14 tion; or

15 “(3) in accordance with an election made by the
 16 annuitant under section 8434(a) or 8436(c) of this title.

17 ~~“§ 8432. Survivor benefits under the thrift savings plan~~

18 “(a) A survivor annuity shall be paid out of the Thrift
 19 Savings Fund with respect to a deceased annuitant as provid-
 20 ed under a method of payment of annuities elected by the
 21 annuitant under section 8424(b) of this title or in accordance
 22 with an election made by the annuitant under section 8434(a)
 23 or 8436(c) of this title. The amount of the survivor annuity
 24 shall be determined on an actuarial basis under regulations
 25 prescribed by the Board.

1 “(b)(1) Except as provided in subsection (d) of this sec-
2 tion, the amount in the account established and maintained
3 for a deceased participant or deceased former participant
4 (other than a deceased annuitant) pursuant to section 8428(a)
5 of this title, determined on the date of an election under sub-
6 section (e) of this section, shall, subject to the limits of the
7 entitlement set out in section 8422(a)(1) of this title (without
8 regard to section 8422(a)(2) of this title), be paid as provided
9 in paragraph (2) of this subsection.

10 “(2)(A) Except as provided in subparagraph (B) of this
11 paragraph, payment under paragraph (1) of this subsection
12 shall be made to the surviving spouse of the deceased partici-
13 pant or former participant pursuant to the method elected
14 under subsection (e) of this section.

15 “(B) If a deceased participant or former participant re-
16 ferred to in paragraph (1) of this subsection is not survived by
17 a spouse, payment under such paragraph shall be made to—

18 “(i) any individual who has an insurable interest
19 in the participant or former participant and has been
20 designated by the participant for the purpose of such
21 paragraph under regulations prescribed by the Board;
22 or

23 “(ii) if the deceased participant or former partici-
24 pant did not make a designation as provided in clause

1 ~~(i) of this subparagraph, to the estate of the deceased~~
2 ~~participant or former participant.~~

3 ~~“(c) A surviving spouse entitled to payment of benefits~~
4 ~~under subsection (b) of this section may elect—~~

5 ~~“(1) to receive an annuity from the Fund payable~~
6 ~~monthly for life;~~

7 ~~“(2) to transfer the amount referred to in such~~
8 ~~subsection to an individual retirement account (within~~
9 ~~the meaning of the Internal Revenue Code of 1954) of~~
10 ~~the surviving spouse; or~~

11 ~~“(3) to withdraw such amount in one or more~~
12 ~~payments.~~

13 ~~“(d) Any amount required for the payment of a survivor~~
14 ~~annuity with respect to a deceased participant or deceased~~
15 ~~former participant out of the Thrift Savings Fund pursuant to~~
16 ~~section 8435 of this title shall be deducted and withheld from~~
17 ~~a distribution made with respect to the deceased participant~~
18 ~~or deceased former participant pursuant to subsection (b) of~~
19 ~~this section. The amount deducted and withheld shall be~~
20 ~~maintained in the Thrift Savings Fund until expended in pay-~~
21 ~~ment of the survivor annuity or until the survivor annuity~~
22 ~~terminates. Any sums remaining from the amount deducted~~
23 ~~and withheld after the termination of the survivor annuity,~~
24 ~~plus net earnings realized from investment of such amount,~~

1 shall be distributed as provided in subsection (b) of this
2 section.

3 ~~“§ 8424. Basic and thrift savings plan survivor benefits relating to~~
4 ~~marriage after commencement of an annuity~~

5 ~~“(a) If an annuitant—~~

6 ~~“(1) is married on the date that the annuitant ap-~~
7 ~~plies for payment of an annuity under subchapter II of~~
8 ~~this chapter to commence, the marriage terminates,~~
9 ~~and the annuitant remarries, or~~

10 ~~“(2) is not married on such date and marries after~~
11 ~~such date,~~

12 ~~the annuitant may irrevocably elect during the later marriage~~
13 ~~to provide an annuity for such annuitant's spouse under the~~
14 ~~method of payment described in section 8416(a)(2)(B) or sub-~~
15 ~~paragraph (B) or (D) of section 8424(a)(2) of this title. An~~
16 ~~election under this subparagraph shall be made in a signed~~
17 ~~writing received by the Office within 2 years after the date of~~
18 ~~the remarriage or marriage, as the case may be.~~

19 ~~“(b) An election under subsection (a) of this section shall~~
20 ~~be effective the first day of the second month beginning after~~
21 ~~the election is received by the Office (in the case of a survivor~~
22 ~~annuity payable out of the Fund) or the Executive Director~~
23 ~~(in the case of a survivor annuity payable out of the Thrift~~
24 ~~Savings Fund), but not earlier than 9 months after the date~~
25 ~~of the remarriage referred to in paragraph (1) of such subsec-~~

1 tion or the date of the marriage referred to in paragraph (2)
2 of such subsection.

3 “(c) An annuitant making an election under subsection
4 (a) of this section to provide a survivor annuity payable out of
5 the Fund shall, within 2 years after the date of the remar-
6 riage referred to in paragraph (1) of such subsection or the
7 date of the marriage referred to in paragraph (2) of such sub-
8 section, deposit in the Fund an amount determined by the
9 Office, as nearly as may be administratively feasible, to re-
10 flect the amount by which the annuity of such annuitant
11 would have been reduced if the election had been in effect
12 since—

13 “(1) the date that payment of an annuity to the
14 annuitant under subchapter II of this chapter com-
15 menced, or

16 “(2) if the annuity had previously been reduced to
17 provide for a survivor annuity under section 8432 of
18 this title, the date the previous reduction in such annu-
19 itant's annuity was terminated under section 8415(b) of
20 this title,

21 plus interest computed as provided in section 8438(a) of this
22 title.

23 “(d) Notwithstanding any other provision of this section,
24 an election under this section may not be made for the pur-

1 pose of providing a survivor annuity payable from the Fund
2 to a spouse of an annuitant by remarriage if—

3 “(A) such spouse was married to the annuitant on
4 the date that payment of an annuity to the annuitant
5 under subchapter II of this chapter commenced; and

6 “(B) rights to survivor benefits for such spouse
7 based on marriage to such annuitant were then waived
8 under section 8416(b)(2) of this title.

9 “§ 8435. Survivor benefits for eligible former spouses: entitlement;
10 amount

11 “(a) Subject to subsections (b) through (g) of this sec-
12 tion, an eligible former spouse of a deceased participant or
13 deceased former participant who dies entitled to an immedi-
14 ate or deferred annuity under section 8411 or 8412 of this
15 title is entitled to a survivor annuity under this section if and
16 to the extent that—

17 “(1) an election under section 8436 of this title;

18 “(2) any court decree dissolving or annulling the
19 marriage of the participant or former participant and
20 the eligible former spouse; or

21 “(3) any court order or court-approved property
22 settlement agreement incident to such decree;
23 expressly provides for such survivor annuity.

24 “(b)(1) The amount of the survivor annuity payable from
25 the Fund to an eligible former spouse of a deceased partici-

1 pant or deceased former participant under this section may
2 not exceed the excess, if any, of—

3 “(A) the amount applicable in the case of such eli-
4 gible former spouse, as determined under paragraph (2)
5 of this subsection, over

6 “(B) the amount of all other survivor annuities
7 payable from the Fund under this section to other eli-
8 gible former spouses of the participant or former par-
9 ticipant based on the order of precedence provided in
10 subsection (d) of this section.

11 “(2) For the purposes of paragraph (1)(A) of this subsec-
12 tion, the amount applicable in the case of an eligible former
13 spouse of a deceased participant or deceased former partici-
14 pant is the amount—

15 “(A) which is equal to 50 percent of the amount
16 of the deceased former participant's annuity payable to
17 the former participant on the day before the date of the
18 former participant's death, if the deceased former par-
19 ticipant was an annuitant on such day;

20 “(B) which would be applicable under paragraph
21 (3) of section 8431(a) of this title in the case of a sur-
22 viving spouse of the deceased, if the deceased was a
23 participant described in paragraph (1) or (2) of such
24 section 8431(a); or

1 “(C) which would be applicable under paragraph
2 (2) of section 8431(b) of this title in the case of a sur-
3 viving spouse of the deceased, if the deceased was a
4 former participant described in paragraph (1) of such
5 section 8431(b).

6 “(e) The total amount of all survivor annuities payable
7 from the Thrift Savings Fund to eligible former spouses of a
8 deceased participant or deceased former participant pursuant
9 to this section may not exceed the amount of the survivor
10 annuities that would be payable to the former spouses out of
11 100 percent of the balance in the account of the deceased
12 participant or deceased former participant, plus anticipated
13 net earnings from investments allocable to such account, de-
14 termined on an actuarial basis in accordance with regulations
15 prescribed by the Board.

16 “(d) If more than one eligible former spouse is entitled
17 to a survivor annuity pursuant to this section, the amount of
18 each such survivor annuity shall be limited appropriately to
19 carry out subsection (b) or (c) of this section on a first-come,
20 first-served basis determined by reference to the date an elec-
21 tion is properly made pursuant to section 8436 of this title or
22 the date the Director or Executive Director, as the case may
23 be, properly receives a copy of the court decree, order, or
24 court-approved agreement applicable to the entitlement.

1 “(e) The commencement and termination dates of a sur-
2 vivor annuity payable under this section to an eligible former
3 spouse of a deceased participant or deceased former partici-
4 pant shall be the commencement and termination dates deter-
5 mined under the provisions of the applicable court order,
6 decree, or agreement or an election, as the case may be (if
7 provided in such order, decree, agreement, or election),
8 except that any such survivor annuity—

9 “(1) shall not commence before—

10 “(A) the day after the participant or former
11 participant dies, or

12 “(B) the first day of the second month begin-
13 ning after the date on which the Office receives
14 written notice of the court order, decree, or
15 agreement or the election, as the case may be, to-
16 gether with such additional information or docu-
17 mentation as the Office may prescribe,
18 whichever is later, and

19 “(2) shall terminate not later than the date pro-
20 vided in section 8464(b)(2) of this title.

21 “(f) For the purposes of this section, a court decree,
22 order, or agreement or an election referred to in subsection
23 (a) of this section shall not be effective, in the case of a survi-
24 vor annuity payable out of the Fund to a former spouse, to
25 the extent that the election is inconsistent with any joint

1 waiver previously executed with respect to such former
2 spouse under section 8416(b)(2) of this title.

3 ~~“(g) Any payment under this section to a person bars~~
4 ~~recovery by any other person.~~

5 ~~“§ 8436. Survivor benefits for former spouses: elections, deposits and~~
6 ~~collections, and administrative provisions~~

7 ~~“(a)(1) If an annuitant has an eligible former spouse on~~
8 ~~the date that the annuitant applies for payment of an annuity~~
9 ~~to the annuitant under subchapter II of this chapter to com-~~
10 ~~mence, the annuitant may elect, under procedures prescribed~~
11 ~~by the Office, to provide a survivor annuity for such former~~
12 ~~spouse under section 8435 of this title. An election under this~~
13 ~~paragraph shall be made on such date or, if later, within 2~~
14 ~~years after the date on which the marriage of the former~~
15 ~~spouse to the annuitant was dissolved or annulled. The elec-~~
16 ~~tion shall specify the amount of the survivor annuity to be~~
17 ~~provided under this paragraph.~~

18 ~~“(2) If an annuitant makes an election under paragraph~~
19 ~~(1) of this subsection to provide a survivor annuity payable~~
20 ~~out of the Fund and the annuitant makes the election during~~
21 ~~the 2-year period referred to in such paragraph, the annui-~~
22 ~~tant shall deposit in the Fund, within such period, an amount~~
23 ~~determined by the Office, as nearly as may be administrative-~~
24 ~~ly feasible, to reflect the amount by which the annuity of such~~
25 ~~an annuitant would have been reduced if the election had~~

1 been continuously in effect since the date the annuity com-
2 menced, plus interest computed as provided in section
3 8438(a) of this title.

4 “(2) An election under paragraph (1) of this subsec-
5 tion—

6 “(A) shall not be effective to the extent that it
7 conflicts with—

8 “(i) any court decree or order referred to in
9 subsection (a) of section 8435 of this title; or

10 “(ii) any agreement referred to in such sub-
11 section;

12 which is received by the Office before the date on
13 which such election is made;

14 “(B) shall not be effective to the extent that the
15 amount of the annuity specified in the election ex-
16 ceeds—

17 “(i) in the case of a survivor annuity payable
18 from the Fund, the amount determined pursuant
19 to subsections (b)(2) and (d) of section 8435 of this
20 title; or

21 “(ii) in the case of a survivor annuity payable
22 from the Thrift Savings Fund, the amount deter-
23 mined pursuant to subsections (e) and (d) of sec-
24 tion 8435 of this title; and

1 ~~“(C) shall not be effective, in the case of an annu-~~
2 ~~itant who is married on the date of the election, unless~~
3 ~~the election is made with the written consent of the~~
4 ~~annuitant's spouse.~~

5 ~~“(b) An annuitant who has elected to provide a survivor~~
6 ~~annuity for an eligible former spouse pursuant to subsection~~
7 ~~(a) of this section may make an election to provide or in-~~
8 ~~crease a survivor annuity for any other eligible former spouse~~
9 ~~of the annuitant within the same period that, and subject to~~
10 ~~the same conditions under which, an election could be made~~
11 ~~under subsection (c) of this section for a spouse of the annui-~~
12 ~~tant (subject to the provisions of subsection (a)(2)(C) of this~~
13 ~~section relating to the consent of a spouse, if the annuitant is~~
14 ~~then married). The opportunity to make an election under the~~
15 ~~preceding sentence is in addition to any opportunity other-~~
16 ~~wise provided under this subsection.~~

17 ~~“(c) If the entitlement of an eligible former spouse of an~~
18 ~~annuitant to a survivor annuity under this subchapter is ter-~~
19 ~~minated or reduced by reason of the remarriage or death of~~
20 ~~the former spouse, the annuitant may elect, in a signed writ-~~
21 ~~ing received by the Office (in the case of a survivor annuity to~~
22 ~~be paid out of the Fund) or the Executive Director (in the~~
23 ~~case of a survivor annuity to be paid out of the Thrift Savings~~
24 ~~Fund) within 2 years after the former spouse's date of death~~
25 ~~or remarriage, as the case may be, to provide a survivor~~

1 annuity under the method described in section 8416(a)(2)(B)
 2 of this title (in the case of a terminated or reduced entitle-
 3 ment payable out of the Fund) or in subparagraph (B) or (D)
 4 of section 8424(a)(2) of this title (in the case of a terminated
 5 or reduced entitlement payable from the Thrift Savings
 6 Fund).

7 “(d) The requirement that the spouse of an annuitant
 8 waive a right to a survivor annuity under this subchapter as a
 9 condition for an election authorized by subsection (a)(3)(C) of
 10 this section shall not apply if the participant or annuitant
 11 establishes to the satisfaction of the Office that—

12 “(1) the spouse’s whereabouts cannot reasonably
 13 be determined; or

14 “(2) due to exceptional circumstances, it would be
 15 inappropriate to require the participant or annuitant to
 16 obtain the spouse’s consent.

17 **“§ 8427. Termination of entitlement**

18 “(a) An election of an annuitant to provide a survivor
 19 annuity to the annuitant’s spouse under this subchapter ter-
 20 minates on the first day of the first month beginning after—

21 “(1) the date of the death of the spouse; or

22 “(2) the date of the dissolution of the spouse’s
 23 marriage to the annuitant.

24 “(b) The entitlement of an eligible former spouse of a
 25 former participant to a survivor annuity under section

1 8435(a) of this title terminates on the first day of the first
2 month beginning after—

3 “(1) the date of the death of the former spouse; or

4 “(2) the date the former spouse remarries before
5 becoming 55 years of age.

6 **“§ 8438. Deposits to the Fund**

7 “(a) For the purposes of section 8434(e) or 8436(a)(2) of
8 this title, the annual rate of interest for each year during
9 which an annuity would have been reduced if the election
10 referred to in such section had been in effect on and after the
11 applicable date referred to in such section shall be the per-
12 cent determined for such year under section 8334(e) of this
13 title.

14 “(b) If an annuitant does not make a deposit required by
15 section 8434(e) or 8436(a)(2) of this title, the Office shall
16 collect such amount by offset against the annuitant's annuity
17 payable from the Fund, up to a maximum of 25 percent of
18 the net annuity otherwise payable to the annuitant. The an-
19 nuitant is deemed to consent to such offset.

20 “(c) The Office may extend the time limit for making a
21 deposit required by section 8434(e) or 8436(a)(2) of this title
22 in any case for good cause shown.

23 **“SUBCHAPTER V—DISABILITY BENEFITS**

24 **“§ 8441. Definitions**

25 “For the purposes of this subchapter—

1 “(1) the term ‘administrator of benefits’ means an
2 insurance company or other entity which—

3 “(A) offers claims payment services and re-
4 lated administrative services under benefit plans
5 provided by employers in the private sector; and

6 “(B) has entered into a contract with the
7 Office pursuant to section 8450 of this title;

8 “(2) the term ‘disability benefits under the Social
9 Security Act’ means disability insurance benefits pay-
10 able under section 223 of the Social Security Act or
11 benefits payable under section 202 of such Act by
12 reason of being under a disability;

13 “(3) the term ‘disability date’, when used with re-
14 spect to an eligible participant, means the date the eli-
15 gible participant became disabled;

16 “(4) the term ‘disabled’, when used with respect
17 to an eligible participant, means that the eligible par-
18 ticipant—

19 “(A) is under a disability within the meaning
20 of section 223 of the Social Security Act; or

21 “(B) is unable, because of disease or injury,
22 to render useful and efficient service in the par-
23 ticipant’s position and is not qualified for reassign-
24 ment, under procedures prescribed by the Office,
25 to a vacant position—

1 “(i) which is in the participant’s em-
2 ploying agency and is in the participant’s
3 commuting area;

4 “(ii) which is at the same grade or pay
5 level as the participant’s position; and

6 “(iii) in which the participant would be
7 able to render useful and efficient service;

8 “(5) the term ‘eligible participant’ means an em-
9 ployee or Member whose service exceeds 18 months
10 and—

11 “(A) who—

12 “(i) has applied for disability benefits
13 under the Social Security Act and has been
14 determined to be under a disability for the
15 purposes of title II of the Social Security
16 Act; or

17 “(ii) in the case of an employee or
18 Member who is not entitled to disability ben-
19 efits under the Social Security Act by reason
20 of insufficient quarters of coverage, has been
21 determined by an administrator of benefits to
22 be disabled within the meaning of paragraph
23 (4)(A) of this section on the basis of a report
24 of examination required by section 8445 of
25 this title; or

1 “(B) who has been determined by an admin-
2 istrator of benefits to be disabled within the mean-
3 ing of paragraph (4)(B) of this section on the basis
4 of a report of examination required by section
5 8445 of this title;

6 “(6) the term ‘onset average pay’, when used
7 with respect to a disabled eligible participant, means
8 the participant’s average pay on the participant’s dis-
9 ability date increased on January 1 of each year after
10 such date by the same percent by which annuities re-
11 ferred to in paragraph (1) of section 8462(b) of this
12 title are increased under such section 8462(b) in De-
13 cember of the preceding year, and compounded; and

14 “(7) the term ‘projected service’, when used with
15 respect to a disabled eligible participant, means the
16 sum of the number of years of service performed by the
17 participant before the participant’s disability date and
18 the number of years, if any, after such date and before
19 the date the participant becomes—

20 “(A) in the case of an eligible participant re-
21 ferred to in subparagraph (5)(A) of this section, 62
22 years of age; or

23 “(B) in the case of an eligible participant re-
24 ferred to in subparagraph (5)(B) of this section, 55
25 years of age.

1 **“§ 8442. Entitlement**

2 “(a)(1) A person who is an eligible participant, is dis-
3 abled, and has used all sick leave accrued and accumulated
4 under subchapter I of chapter 62 of this title or any other
5 similar applicable provision of law relating to Government
6 employment is entitled to receive disability benefits under
7 this subchapter while—

8 “(A) in the case of a person who is disabled
9 within the meaning of section 8441(4)(A) of this title;
10 such person is under 62 years of age; and

11 “(B) in the case of a person who is disabled
12 within the meaning of section 8441(4)(B) of this title;
13 such person is under 55 years of age.

14 “(2) When a person referred to in paragraph (1) of this
15 subsection exceeds the maximum age at which the person is
16 qualified for benefits under such paragraph, the person shall
17 be treated as an eligible participant for the purposes of enti-
18 tlement to benefits under subsection (b) of this section.

19 “(b)(1) An eligible participant who—

20 “(A) is disabled within the meaning of section
21 8441(4)(A) of this title and is not less than 62 years of
22 age; or

23 “(B) is disabled within the meaning of section
24 8441(4)(B) of this title and is not less than 55 years of
25 age;

1 and who has 5 or more years of service and projected service
2 shall be entitled to an annuity as provided in subchapter II of
3 this title.

4 “(2) For the purposes of applying the provisions of sub-
5 chapter II of this title in the case of an eligible participant
6 pursuant to paragraph (1) of this subsection—

7 “(A) the eligible participant shall be deemed to
8 have separated from Government employment on the
9 day before the date the participant becomes entitled to
10 an annuity pursuant to paragraph (1) of this subsection;

11 “(B) the service of the participant shall include
12 the participant’s projected service; and

13 “(C) the participant’s average pay shall be equal
14 to the participant’s onset average pay.

15 **“§ 8442. Computation of benefits**

16 “(a) The annual rate of the disability benefits payable
17 under section 8442(a) of this title to an eligible participant
18 referred to in section 8441(5)(A) of this title shall be equal to
19 the excess of 60 percent of the participant’s onset average
20 pay over the amount, if any, payable to the participant as
21 disability benefits under the Social Security Act.

22 “(b) The annual rate of the disability benefits payable
23 under section 8442(a) of this title to an eligible participant
24 referred to in section 8441(5)(B) of this title—

1 “(1) during the period ending 1 year after the eli-
2 gible participant’s disability date, shall be equal to the
3 excess of 60 percent of the participant’s onset average
4 pay over the amount, if any, payable to the participant
5 as disability benefits under the Social Security Act;
6 and

7 “(2) after such period, while the participant is
8 under 55 years of age, shall be equal to the excess of
9 40 percent of the participant’s onset average pay over
10 the amount, if any, payable to the participant as dis-
11 ability benefits under the Social Security Act.

12 “§ 8444. Application

13 “(a) Except as provided in subsection (b) of this section,
14 a claim of a participant for disability benefits under this sub-
15 chapter may be allowed only if the participant files with the
16 appropriate administrator of benefits an application for the
17 disability benefits before the date the participant separates
18 from Government employment or within 1 year after such
19 date.

20 “(b) An appropriate administrator of benefits may waive
21 the time limitation set out in subsection (a) of this section in
22 the case of a participant if—

23 “(1) the administrator of benefits determines that
24 the participant was mentally incompetent on the date

1 the participant separated from Government employ-
2 ment or within 1 year after such date; and

3 “(2) the application for disability benefits is filed
4 within 1 year after the date the participant is restored
5 to mental competency or the date a fiduciary is ap-
6 pointed to manage the financial affairs of the partici-
7 pant, whichever date is earlier.

8 **“§ 8445. Medical examinations**

9 “(a) A participant applying for or receiving disability
10 benefits under section 8442(a) of this title shall be examined
11 by a physician under the direction of the appropriate adminis-
12 trator of benefits at such times as such administrator may
13 require.

14 “(b) A physician examining a participant under subsec-
15 tion (a) of this section shall report to the appropriate adminis-
16 trator of benefits the diagnosis and prognosis with respect to
17 such participant.

18 “(c) Notwithstanding any other provision of this sub-
19 chapter, any participant who fails to submit to the examina-
20 tion required under subsection (a) of this section shall not be
21 entitled to disability benefits.

22 **“§ 8446. Offers of alternative employment**

23 “(a)(1) Any participant who is applying for disability
24 benefits under this subchapter, is examined pursuant to sec-
25 tion 8445 of this title, and is determined on the basis of the

1 examination to be able to perform the work required in any
2 position described in paragraph (2) of this subsection shall be
3 considered for appointment to such position.

4 “(2) A position referred to in paragraph (1) of this sub-
5 section is a position which is in the agency of the Govern-
6 ment employing the participant referred to in such para-
7 graph, is a position for which the participant is qualified, is
8 not lower than the grade or pay level of the participant's
9 position, and is within the participant's commuting area.

10 “(b) Any participant who is appointed to or offered a
11 position under subsection (a) of this section is entitled to
12 appeal to the Merit Systems Protection Board under section
13 7701 of this title any determination that the participant is
14 able to perform the work required of such position.

15 “§ 8447. Recovery or restoration of earning capacity

16 “(a)(1) If an administrator of benefits determines that an
17 individual who is receiving disability benefits under this sub-
18 chapter has recovered from the disability before becoming 62
19 years of age (in the case of an individual who is disabled
20 within the meaning of section 8441(4)(A) of this title) or 55
21 years of age (in the case of an individual who is disabled
22 within the meaning of section 8441(4)(B) of this title), pay-
23 ment of the benefits shall terminate on the date the individual
24 is reemployed by the Government or 1 year after the date of

1 the medical examination on which such administrator's deter-
2 mination is based, whichever date is earlier.

3 “(2)(A) Payment of disability benefits to any individual
4 under this chapter that has been terminated pursuant to para-
5 graph (1) of this subsection shall be resumed if there is a
6 recurrence of the individual's disability, as determined by an
7 administrator of benefits after a medical examination of the
8 individual, and the individual is under 62 years of age (in the
9 case of an individual who is disabled within the meaning of
10 section 8441(4)(A) of this title) or under 55 years of age (in
11 the case of an individual who is disabled within the meaning
12 of section 8441(4)(B) of this title).

13 “(B) A resumption of payment of disability benefits
14 under subparagraph (A) of this paragraph shall be effective
15 on the date the medical examination referred to in such para-
16 graph was completed.

17 “(C) The annual rate of the disability benefits payable to
18 an individual upon resumption of payment under subpara-
19 graph (A) of this paragraph shall be the annual rate that
20 would have been payable to the individual if payment of dis-
21 ability benefits had not been terminated pursuant to para-
22 graph (1) of this subsection.

23 “(b)(1) If the administrator of benefits determines that
24 an individual who is receiving disability benefits under this
25 subchapter has received, during the latest calendar year,

1 income from wages or self-employment or both totaling the
2 amount equal to 60 percent of the rate of pay payable for the
3 individual's position of Government employment on the indi-
4 vidual's disability date determined for the purposes of this
5 subchapter (increased as if such rate of pay had been in-
6 creased, by the same percent as the overall percent increase
7 in the rates of pay under the General Schedule, each time
8 such rates had been increased pursuant to section 5305 of
9 this title since such date); payment of the benefits shall termi-
10 nate on the date 60 days after the end of such calendar year.

11 “(2)(A) If payment of disability benefits under this sub-
12 chapter has been terminated pursuant to paragraph (1) of this
13 subsection in the case of an individual who is not reemployed
14 in a position subject to this chapter, who continues to be
15 disabled, who is under 62 years of age (in the case of an
16 individual who is disabled within the meaning of section
17 8441(4)(A) of this title) or under 55 years of age (in the case
18 of an individual who is disabled within the meaning of section
19 8441(4)(B) of this title), and who receives in the calendar
20 year in which the disability benefits were terminated, or any
21 calendar year after such year, income from wages or self-
22 employment or both totaling less than the amount computed
23 in such case as provided in such paragraph, payment of dis-
24 ability benefits to the individual under this subchapter shall
25 be resumed.

1 “(B) A resumption of payment of disability benefits to
2 an individual under subparagraph (A) of this paragraph shall
3 be effective the first day of the first year beginning after the
4 year in which the individual received the income referred to
5 in such subparagraph.

6 “(C) The annual rate of the disability benefits payable to
7 an individual upon resumption of payment of disability bene-
8 fits under subparagraph (A) of this paragraph shall be the
9 annual rate that would have been payable to the individual if
10 payment had not been terminated pursuant to paragraph (1)
11 of this subsection.

12 “(e) Any determination under this section may be ap-
13 pealed to the Office. A determination of the Office in such an
14 appeal may be appealed to the Merit Systems Protection
15 Board under section 7701 of this title. The Merit Systems
16 Protection Board may hear and adjudicate any such appeal.

17 “§ 8448. Relationship to workers' compensation

18 “(a)(1) An individual is not entitled to receive disability
19 benefits under this subchapter and compensation for injury to
20 or disability of the individual under subchapter I of chapter
21 81 of this title covering the same period of time.

22 “(2) Paragraph (1) of this subsection does not bar the
23 right of a claimant to the greater benefit conferred by either
24 subchapter referred to in such paragraph for any part of the
25 period referred to in such paragraph.

1 ~~“(3) Paragraph (1) of this subsection and the provisions~~
2 ~~of subchapter I of chapter 81 of this title do not deny an~~
3 ~~individual an annuity which the individual is entitled to re-~~
4 ~~ceive under this chapter on account of service performed by~~
5 ~~the individual and do not deny any concurrent benefit to the~~
6 ~~individual under subchapter I of chapter 81 of this title on~~
7 ~~account of the death of another individual.~~

8 ~~“(b)(1) Subject to paragraph (2) of this subsection, an~~
9 ~~individual's receipt of a lump-sum payment for compensation~~
10 ~~under section 8135 of this title shall not affect the individ-~~
11 ~~ual's entitlement to disability benefits under this subchapter.~~

12 ~~“(2) If disability benefits are payable under this sub-~~
13 ~~chapter by reason of the same disability for which a lump-~~
14 ~~sum payment of compensation referred to in paragraph (1) of~~
15 ~~this subsection has been made, so much of the compensation~~
16 ~~as has been paid for a period extended beyond the date pay-~~
17 ~~ment of the disability benefits commences, as determined by~~
18 ~~the Department of Labor, shall be refunded to that Depart-~~
19 ~~ment for credit to the Employees' Compensation Fund.~~
20 ~~Before the individual may receive the disability benefits, the~~
21 ~~individual shall—~~

22 ~~“(A) refund to the Department of Labor the~~
23 ~~amount representing the commuted compensation pay-~~
24 ~~ments for the extended period; or~~

1 ~~“(B) authorize the deduction of the amount from~~
2 ~~the disability benefits.~~

3 Deductions from the disability benefits may be made from
4 accrued or accruing payments. The amounts deducted and
5 withheld from disability benefits shall be transmitted to the
6 Department of Labor for reimbursement to the Employees'
7 Compensation Fund. When the Department of Labor finds
8 that the financial circumstances of an individual entitled to
9 disability benefits under this subchapter warrant deferred re-
10 funding under this paragraph, deductions from the disability
11 benefits may be prorated against and paid from accruing pay-
12 ments in such manner as the Department determines appro-
13 priate.

14 ~~“§ 8449. Military reserve technicians~~

15 ~~“(a)(1) Except as provided in paragraph (2) of this sub-~~
16 ~~section, a participant shall be entitled to disability benefits~~
17 ~~under this subchapter in the same manner as an eligible par-~~
18 ~~ticipant described in section 8441(5)(B) of this title if the par-~~
19 ~~ticipant—~~

20 ~~“(A) is separated from employment as a military~~
21 ~~reserve technician by reason of a disability that dis-~~
22 ~~qualifies the individual from membership in a reserve~~
23 ~~component of the Armed Forces specified in section~~
24 ~~261(a) of title 10 or from holding the military grade~~
25 ~~required for such employment.~~

1 “(B) is not considered disabled;

2 “(C) is not appointed to another position in the
3 Government (under subsection (b) of this section or
4 otherwise); and

5 “(D) has not declined an offer of appointment to a
6 position in the Government under subsection (b) of this
7 section.

8 “(2) Payment of disability benefits to an individual
9 under this section terminates—

10 “(A) on the date the individual is appointed to a
11 position in the Government (under subsection (b) of this
12 section or otherwise);

13 “(B) on the date the individual declines an offer of
14 appointment to a position in the Government pursuant
15 to subsection (b) of this section; or

16 “(C) as provided in section 8447(a) or 8447(b) of
17 this title.

18 “(b) Any individual applying for or receiving disability
19 benefits pursuant to this section shall, in accordance with
20 regulations prescribed by the Office, be considered by any
21 agency of the Government before any vacant position in the
22 agency is filled if—

23 “(1) the position is located within the commuting
24 area of the individual's former position;

1 “(2) the individual is qualified to serve in the
2 vacant position; and

3 “(3) the position is at the same grade or equiva-
4 lent level as the position from which the individual was
5 separated.

6 **“§ 8450. Administrative provisions**

7 “(a) For the purpose of this section, the term ‘State’
8 means a State of the United States, the District of Columbia,
9 the Commonwealth of Puerto Rico, and a territory or posses-
10 sion of the United States.

11 “(b) The Office shall enter into a contract with one or
12 more insurance companies or other entities described in sec-
13 tion 8441(1)(A) of this title to provide long-term group dis-
14 ability insurance benefits under this subchapter and to admin-
15 ister the provisions of this subchapter which the Office is not
16 specifically required by this chapter to administer. Each such
17 company or other entity shall meet the following require-
18 ments:

19 “(1) It must be licensed to transact insurance
20 under the laws of a State.

21 “(2) It must have in effect, on the most recent
22 December 31 for which information is available to the
23 Office, an amount of employee group disability insur-
24 ance equal to at least 1 percent of the total amount of

1 employee group disability insurance in the United
2 States in all insurance companies.

3 “(c) A contractor under a contract awarded under sub-
4 section (b) of this section shall establish an administrative
5 office under a name approved by the Office.

6 “(d) Each contract awarded by the Office under subsec-
7 tion (b) of this section may remain in effect for a period not
8 exceeding 5 years and may include a provision authorizing
9 extension of the contract, with the consent of the contractor,
10 for successive periods of 1 year each.

11 “(e) The Director may include in contracts awarded
12 under subsection (b) of this section such terms and conditions
13 as he considers appropriate to protect the interests of partici-
14 pants and the United States.

15 “(f) All records established or maintained by an adminis-
16 trator of benefits in the administration of this subchapter shall
17 be the property of the United States. The administrator of
18 benefits shall deliver such records to the Office whenever re-
19 quested by the Office.

20 “(g) The provisions of any contract under this subchap-
21 ter which relate to the nature or extent of coverage or bene-
22 fits (including payments with respect to benefits) shall super-
23 sede and preempt any law of any State or political subdivi-
24 sion thereof, or any regulation issued thereunder, which re-

1 lates to group disability insurance to the extent that the law
2 or regulation is inconsistent with the contractual provisions.

3 “(h) The Secretary of Health and Human Services shall
4 furnish to the Office and an administrator of benefits such
5 information, including information on individuals claiming en-
6 titlement to benefits under this subchapter, as the Office de-
7 termines to be necessary to carry out this subchapter.

8 **“§ 8451. Annual accounting; special contingency reserve**

9 “A contract awarded under section 8450 of this title
10 shall include a provision requiring the administrator of bene-
11 fits under the contract to transmit an accounting to the Office
12 not later than 90 days after the end of each policy year. The
13 accounting shall set forth, in a form approved by the Office—

14 “(1) the total of all claim charges incurred for the
15 contract year; and

16 “(2) the amounts of the expenses of the adminis-
17 trator of benefits charged for the contract year.

18 **“§ 8452. Federal Employees' Disability Insurance Fund**

19 “(a) There is established in the Treasury of the United
20 States a fund to be known as the ‘Federal Employees’ Dis-
21 ability Insurance Fund’.

22 “(b)(1) Each agency of the Government employing par-
23 ticipants shall make periodic payments to the Federal Em-
24 ployees' Disability Insurance Fund in the amount of the por-
25 tion of the premium payable for the applicable period (as de-

1 terminated by the Office) which is attributable to such partici-
2 pants, as determined by the Office and the appropriate ad-
3 ministrator of benefits.

4 “(2) An employing agency shall pay the amounts re-
5 quired by paragraph (1) of this subsection from the appropria-
6 tion or fund available for payment of the basic pay or salaries
7 of employees of the agency. In the case of a participant in the
8 legislative branch who is paid by the Clerk of the House of
9 Representatives, the amount shall be paid from the contin-
10 gent fund of the House of Representatives.

11 “(c) Sums in the Federal Employees’ Disability Insur-
12 ance Fund shall be available without fiscal year limitation for
13 the payment of premiums for long-term group disability in-
14 surance under this subchapter.

15 “(d) The Secretary of the Treasury may invest and rein-
16 vest any of the money in the Federal Employees’ Disability
17 Insurance Fund in interest-bearing obligations of the United
18 States and may sell such obligations for the purposes of such
19 fund. The interest on and the proceeds from the sale of these
20 obligations, and the income derived from premium rate ad-
21 justments, become a part of such fund.

22 “(e)(1) No tax, fee, or other monetary payment may be
23 imposed or collected by any State or by any political subdivi-
24 sion or other governmental authority thereof on or with re-

1 spect to any premium paid for long-term group disability in-
 2 surance under this subchapter.

3 “(2) Paragraph (1) of this subsection shall not be con-
 4 strued to exempt any administrator of benefits from the impo-
 5 sition, payment, or collection of a tax, fee, or other monetary
 6 payment on the net income or profit accruing to or realized
 7 by the administrator from business conducted under this sub-
 8 chapter, if that tax, fee, or payment is applicable to a broad
 9 range of business activity.

10 “SUBCHAPTER VI—GENERAL AND
 11 ADMINISTRATIVE PROVISIONS

12 “§ 8461. Authority of the Office of Personnel Management

13 “(a) The Office shall pay all benefits that are payable
 14 under subchapter II of this chapter from the Fund.

15 “(b) The Office shall administer all provisions of this
 16 chapter not specifically required to be administered by the
 17 Board, the Executive Director, or any other agency.

18 “(c) The Office may make regulations to carry out the
 19 provisions of this chapter administered by the Office.

20 “(d) The Office may contract for the performance of any
 21 administrative services necessary to carry out its responsibil-
 22 ities under this chapter.

23 “§ 8462. Cost-of-living adjustment in basic plan annuities and survi-
 24 vor annuities

25 “(a) For the purpose of this section—

1 “(1) the term ‘base quarter’, when used with re-
2 spect to a year, means the calendar quarter ending on
3 September 30, of such year; and

4 “(2) the price index for a base quarter is the
5 arithmetic mean of such index for the 3 months com-
6 prising such quarter.

7 “(b)(1) Except as provided in subsection (c) of this sec-
8 tion, effective December 1 of each year in which the price
9 index for the base quarter of such year exceeds the price
10 index for the base quarter of the preceding year, each annuity
11 which is payable from the Fund under subchapter II or IV of
12 this chapter and commences not later than such December 1
13 shall be increased by the percentage computed under para-
14 graph (2) of this subsection.

15 “(2) The percentage by which an annuity is increased
16 under paragraph (1) of this subsection in any year shall be
17 the excess, if any, of—

18 “(A) the percentage of the increase in the price
19 index for the base quarter of such year over the price
20 index of the preceding year, over

21 “(B) 2 percent.

22 “(c)(1) The first increase (if any) made under subsection
23 (b) of this section to an annuity payable to a participant who
24 retires, to the surviving spouse or surviving former spouse of
25 a deceased participant, or to the surviving spouse or surviv-

1 ing former spouse of a deceased annuitant whose annuity has
2 never been increased under this subsection or subsection (b)
3 of this section shall be equal to the product (adjusted to the
4 nearest one-tenth of 1 percent) of—

5 “(A) one-twelfth of the applicable percentage of
6 the adjustment computed under subsection (b) of this
7 section, multiplied by

8 “(B)(i) the number of months (counting any por-
9 tion of a month as a month) for which the annuity was
10 payable before the effective date of the increase, or

11 “(ii) in the case of a survivor annuity payable to a
12 surviving spouse or surviving former spouse of a de-
13 ceased annuitant whose annuity has never been so in-
14 creased, the number of months (counting any portion of
15 a month as a month) since the annuity was first pay-
16 able to the deceased annuitant.

17 “(2) Effective on its commencing date, an annuity re-
18 ferred to in subsection (b) of this section and payable to an
19 annuitant's surviving spouse or surviving former spouse shall
20 be increased by the total percentage by which the deceased
21 annuitant's annuity had been increased under this section
22 during the period beginning on the date the deceased annu-
23 itant's annuity commenced and ending on the date of the de-
24 ceased annuitant's death.

1 “(d) The monthly installment of an annuity payable
2 after adjustment under this section shall be rounded to the
3 next lowest dollar, but the increase in the monthly install-
4 ment under this section shall be at least \$1.

5 “§ 8463. Rate of benefits

6 “Each annuity and disability benefit is stated as an
7 annual amount, one-twelfth of which, fixed at the next lowest
8 dollar, constitutes the monthly rate payable on the first busi-
9 ness day of the first month beginning after the last day of the
10 month for which the annuity or disability benefit has accrued.

11 “§ 8464. Commencement and termination of annuities

12 “(a)(1) Except as otherwise provided in this chapter, the
13 annuity of a participant under subchapter II of this chapter
14 shall commence on the first day of the first month beginning
15 after—

16 “(A) the date the participant separates from Gov-
17 ernment employment entitled to an immediate annuity
18 under section 8411 of this title, or

19 “(B) in the case of a participant who is entitled to
20 a deferred annuity under section 8412 of this title and
21 is not entitled to an immediate annuity under section
22 8411 of this title, the date elected by the participant
23 under section 8412(a) of this title or the date the par-
24 ticipant becomes 62 years of age, whichever is earlier,
25 as the case may be.

1 “(2) The annuity of an annuitant under this chapter ter-
2 minates on the date of death or other terminating event pro-
3 vided by law.

4 “(b)(1) Except as otherwise provided in this chapter, a
5 survivor annuity payable to an individual under this chapter
6 shall commence on the first day of the first month beginning
7 after the date of the death of the deceased participant or
8 former participant on whose death such annuity is based.

9 “(2) A survivor annuity payable to a surviving spouse or
10 an eligible former spouse of a deceased participant or de-
11 ceased former participant under this chapter terminates on
12 the last day of the last month ending before the surviving
13 spouse or former spouse dies or, if the surviving spouse or
14 former spouse is less than 55 years of age, remarries.

15 “§ 8465. Waiver, allotment, and assignment of benefits

16 “(a) An individual entitled to receive payment of bene-
17 fits under subchapter II of this chapter may decline to accept
18 all or any part of the amount of the benefits by a waiver
19 signed and filed with the Office. The waiver may be revoked
20 in writing at any time. Payment of the benefits waived may
21 not be made for the period during which the waiver is in
22 effect.

23 “(b) An individual entitled to receive payment of bene-
24 fits under subchapter II of this chapter may make allotments

1 or assignments of amounts from the benefits for such pur-
2 poses as the Office considers appropriate.

3 **“§ 8466. Application for benefits**

4 “(a) No payment of benefits based on the service of a
5 former participant shall be made under this chapter unless an
6 application for payment of the benefits is received by the
7 Office before the one hundred and fifteenth anniversary of the
8 former participant’s birth.

9 “(b) Notwithstanding subsection (a) of this section, after
10 the death of a participant or former participant, a benefit
11 based on the participant’s or former participant’s service
12 shall not be paid under subchapter IV of this chapter unless
13 an application therefor is received by the Office within 30
14 years after the death or other event which establishes the
15 entitlement to the benefit.

16 **“§ 8467. Court orders**

17 “(a) Payments under this chapter which would other-
18 wise be made to a participant or former participant based
19 upon the service of the participant or former participant shall
20 be paid (in whole or in part) by the Office or the Executive
21 Director, as the case may be, to another person if and to the
22 extent that the terms of any court decree of divorce, annul-
23 ment, or legal separation, or the terms of any court order or
24 court-approved property settlement agreement incident to
25 any court decree of divorce, annulment, or legal separation

1 expressly provide. Any payment under this paragraph to a
2 person bars recovery by any other person.

3 “(b) Subsection (a) of this section shall apply only to
4 payments made by the Office or the Executive Director
5 under this chapter after the date on which the Office or the
6 Executive Director, as the case may be, receives written
7 notice of such decree, order, or agreement, and such addition-
8 al information and documentation as the Office or the Execu-
9 tive Director may require.

10 **“§ 8468. Annuities and pay on reemployment**

11 “(a) If an annuitant becomes employed in an appointive
12 or elective position in the Government, payment of any annu-
13 ity under subchapter II of this chapter to the annuitant ter-
14 minates effective on the date of the employment, and the
15 annuitant's service on and after the date the annuitant be-
16 comes so employed is covered by this chapter. Upon termina-
17 tion of the employment, the rights of the annuitant under
18 subchapter II of this chapter shall be redetermined. If the
19 annuitant dies while still so employed, a survivor annuity
20 payable with respect to the deceased annuitant shall be rede-
21 termined as if the employment had otherwise terminated on
22 the date of death.

23 “(b) The amount of an annuity resulting from a redeter-
24 mination of rights under this chapter pursuant to subsection
25 (a) of this section shall not be less than the amount of the

1 terminated annuity plus any increases under section 8462 of
 2 this title occurring after the termination of the annuity and
 3 before the commencement of the redetermined annuity.

4 ~~“SUBCHAPTER VII—TRANSITION PROVISIONS~~

5 ~~“§ 8471. Treatment of certain individuals subject to the Civil Service~~

6 ~~Retirement and Disability System~~

7 ~~“(a)(1)(A) Any individual who is subject to subchapter~~
 8 ~~III of chapter 83 of this title as an employee (as defined in~~
 9 ~~section 8331(1) of this title, other than an individual em-~~
 10 ~~ployed by the government of the District of Columbia) or a~~
 11 ~~Member (as defined in section 8331(2) of this title), whose~~
 12 ~~service is not employment for the purposes of title II of the~~
 13 ~~Social Security Act and chapter 21 of the Internal Revenue~~
 14 ~~Code of 1954, and who is not required by section 8402 of~~
 15 ~~this title to be a participant may elect to commence participa-~~
 16 ~~tion in the System.~~

17 ~~“(B) An election made under subparagraph (A) of this~~
 18 ~~paragraph shall be made in writing, in accordance with such~~
 19 ~~regulations as the Office may prescribe, and not later than~~
 20 ~~December 31, 1987, or, in the case of an individual who~~
 21 ~~becomes an employee or Member after a break in service for~~
 22 ~~a period that includes January 1, 1987, not later than 1 year~~
 23 ~~after the date on which the individual resumes service.~~

24 ~~“(2) Except as provided in section 8472(d) of this title,~~
 25 ~~any individual who makes the election authorized by para-~~

1 graph (1) of this subsection shall retain accrued credit for
2 entitlement to benefits under subchapter III of chapter 83 of
3 title 5, United States Code, for service performed while sub-
4 ject to such subchapter.

5 “(3) An individual referred to in paragraph (1) of this
6 subsection who becomes an employee or Member after a
7 break in service for a period that includes January 1, 1987,
8 may make deposits under section 8334 of this title for service
9 performed before such date while subject to subchapter III of
10 chapter 83 of this title.

11 “(b) Except as provided in section 8472(d) of this title,
12 any individual who—

13 “(1) has an unrefunded lump-sum credit in the
14 Fund under subchapter III of chapter 83 of this title,

15 “(2) is required by section 8402 of this title to be
16 a participant, and

17 “(3) is not a participant referred to in section
18 8473(a) of this title,

19 shall retain accrued credit for entitlement to benefits under
20 such subchapter for service performed while subject to such
21 subchapter.

22 “(c) Except as provided in section 8472(d) of this title,
23 any individual who—

1 “(1) has received a refund of a lump-sum credit in
2 the Fund under subchapter III of chapter 83 of this
3 title,

4 “(2) is required by section 8402 of this title to be
5 a participant, and

6 “(3) is not a participant referred to in section
7 8473(a) of this title,

8 may make deposits under section 8334 of this title for service
9 performed before January 1, 1987, while subject to subchap-
10 ter III of chapter 83 of this title and shall, upon making such
11 deposits, be entitled to credit under such subchapter for serv-
12 ice covered by the deposits.

13 “(d) Survivor benefits shall be payable as provided in
14 subchapter III of chapter 83 of this title and this chapter to
15 the extent of the service creditable under such subchapter
16 (pursuant to this section) and this chapter in the case of a
17 participant referred to in subsection (a), (b), or (c) of this sec-
18 tion.

19 “§ 8472. Special rules for participants retaining entitlement in the
20 **Civil Service Retirement and Disability System**

21 “(a) Service that is creditable under subchapter III of
22 chapter 83 of this title in the case of an individual who re-
23 tains entitlement in the Civil Service Retirement and Disabil-
24 ity System under section 8471 of this title shall be credited
25 as service under this chapter only—

1 “(1) for the purposes of determining eligibility to
2 retire entitled to an annuity under section 8411 or
3 8412 of this title and entitlement for disability benefits
4 under subchapter V of this chapter; and

5 “(2) for the purpose of considering such service as
6 years of participation in the System for the purposes of
7 section 8422 of this title (relating to vesting under the
8 thrift savings plan).

9 “(b) Service performed as a participant in the System by
10 an individual referred to in subsection (a) of this section shall
11 be credited under subchapter III of chapter 83 of this title
12 only for the purpose of determining eligibility to retire enti-
13 tled to an annuity under section 8335, 8336, or 8338 of this
14 title.

15 “(c)(1) The rates of basic pay in effect for an individual
16 referred to in subsection (a) of this section on and after the
17 date the individual begins to participate in the System shall
18 be taken into account in computing the individual's average
19 pay (as defined in section 8331(4) of this title) for the pur-
20 poses of subchapter III of chapter 83 of this title.

21 “(2) The rates of basic pay in effect for an individual
22 referred to in subsection (a) of this section before the date the
23 individual begins to participate in the System shall be taken
24 into account in computing the individual's average pay for
25 the purposes of this chapter.

1 “(d) Section 8337 of this title (relating to disability re-
2 tirement) shall not apply in the case of a participant referred
3 to in subsection (a).

4 “§ 8473. Participants subject to the Federal Employees' Retirement
5 Contribution Temporary Adjustment Act of 1983

6 “(a)(1) The service of a participant with respect to
7 which a reduced contribution is made under section 204(a) of
8 the Federal Employees' Retirement Contribution Temporary
9 Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331 note)
10 shall be credited as service for the purposes of this chapter
11 and shall be considered years of participation in the System
12 for the purposes of section 8422(b)(1) of this title.

13 “(2) Paragraph (1) of this subsection shall not apply to
14 an individual who serves continuously as a Member of Con-
15 gress during the period beginning December 31, 1983, and
16 ending January 1, 1987.

17 “(b)(1) On January 1, 1987, the amount computed
18 under paragraph (2) of this subsection shall be transferred
19 from the Fund to the Thrift Savings Fund in the case of a
20 participant to whom subsection (a)(1) of this section applies.
21 The amount transferred shall be credited to an account estab-
22 lished for the individual pursuant to section 8428(a) of this
23 title.

1 “(2)(A) The amount transferred from the Fund in the
2 case of a participant pursuant to paragraph (1) of this subsec-
3 tion shall be equal to the sum of—

4 “(i) two times the total amount deducted and
5 withheld from the basic pay of the participant pursuant
6 to section 204(a) of the Federal Employees’ Retire-
7 ment Contribution Temporary Adjustment Act of 1983
8 (97 Stat. 1107; 5 U.S.C. 8331 note); and

9 “(ii) interest on the amount referred to in clause
10 (i) of this subparagraph computed at the annual rate
11 determined under the second sentence of this subpara-
12 graph and compounded annually, as if a fraction of
13 such amount (determined as provided in subparagraph
14 (B) of this paragraph) had been deposited to the credit
15 of the Fund at the end of each month for which
16 amounts were deducted and withheld from the basic
17 pay of the participant as described in clause (i) of this
18 subparagraph.

19 The annual rate referred to in clause (ii) for an amount trans-
20 ferred from the Fund in any calendar year shall be equal to
21 the interest rate determined for such calendar year under sec-
22 tion 8334(e) of this title.

23 “(B) In the case of any participant to whom paragraph
24 (1) of this subsection applies—

1 “(i) the numerator of the fraction referred to in
2 subparagraph (A)(ii) of this paragraph is one; and

3 “(ii) the denominator of the fraction is the number
4 of months for which amounts were deducted and with-
5 held from the basic pay of the participant as described
6 in subparagraph (A)(i) of this paragraph.

7 “(3) For the purposes of section 8422 of this title—

8 “(A) one-half of the amount computed in the case
9 of a participant referred to in subsection (a) of this sec-
10 tion pursuant to paragraph (2) of this subsection shall
11 be treated as a contribution made under section
12 8421(a) of this title; and

13 “(B) one-half of such amount shall be treated as a
14 contribution made by the employing agency of the par-
15 ticipant pursuant to section 8421(b) of this title.

16 “(4) All amounts transferred from the Fund pursuant to
17 paragraph (1) of this subsection shall be transferred in the
18 form of interest-bearing securities of the United States.

19 “(e) The total amount of any deposit made to the Fund
20 under section 8334(j) of this title (relating to deposits cover-
21 ing periods of military service) in the case of a participant
22 referred to in paragraph (1) of this subsection shall be refund-
23 ed to the participant. The refund shall be paid out of sums in
24 the Fund.

1 ~~“(A) the Civil Service Retirement and Dis-~~
2 ~~ability System under subchapter III of chapter 83~~
3 ~~of this title;~~

4 ~~“(B) the Foreign Service Retirement and~~
5 ~~Disability System under chapter 8 of the Foreign~~
6 ~~Service Act of 1980 (22 U.S.C. 4041 et seq.);~~
7 ~~and~~

8 ~~“(C) the Central Intelligence Agency Retire-~~
9 ~~ment and Disability System under the Central In-~~
10 ~~telligence Agency Retirement Act of 1964 for~~
11 ~~Certain Employees (50 U.S.C. 403 note); and~~

12 ~~“(3) the term ‘reemployed annuitant’ means an~~
13 ~~annuitant who becomes employed by the Government~~
14 ~~after the effective date of the Civil Service Pension~~
15 ~~Reform Act of 1985 and is required by section 8402 of~~
16 ~~this title to be a participant.~~

17 ~~“(b) A reemployed annuitant shall retain entitlement in~~
18 ~~the Government retirement system under which the annui-~~
19 ~~tant is receiving an annuity.~~

20 ~~“(c)(1) Service that is creditable under the Government~~
21 ~~retirement system of a reemployed annuitant shall be credited~~
22 ~~under this chapter only for the purpose of determining eligi-~~
23 ~~bility to retire entitled to an annuity under section 8411 of~~
24 ~~this title.~~

1 “(2) Service performed as a reemployed annuitant shall
2 not be creditable service for the purposes of the Government
3 retirement system of the reemployed annuitant.

4 “(d)(1) The rates of basic pay in effect for a reemployed
5 annuitant on and after the date the annuitant begins to par-
6 ticipate in the System shall be taken into account in comput-
7 ing the annuitant's average pay for the purposes of the Gov-
8 ernment retirement system under which the annuitant was
9 receiving an annuity when the reemployment commenced.

10 “(2) The rates of basic pay in effect for a reemployed
11 annuitant before the date the annuitant begins to participate
12 in the System shall be taken into account in computing the
13 annuitant's average pay for the purposes of this chapter.

14 “(e) Deductions may not be withheld from the pay of a
15 reemployed annuitant for the purposes of the reemployed an-
16 nuitant's Government retirement system while the reem-
17 ployed annuitant is a participant in the System.

18 “§ 8475. Exemption from certain offset provisions of the Social Secu-
19 rity Act

20 “Sections 202(b)(4), 202(e)(2), 202(e)(7), 202(f)(2),
21 202(g)(4), and 215(a)(7) of the Social Security Act shall not
22 apply in the case of a person who is a participant referred to
23 in section 8471 of this title.

1 ~~“§ 8476. Regulations~~

2 ~~“The Office may prescribe regulations to carry out this~~
3 ~~subchapter.~~

4 ~~“SUBCHAPTER VIII—CIVIL SERVICE THRIFT~~
5 ~~INVESTMENT MANAGEMENT SYSTEM~~

6 ~~“§ 8401. Civil Service Thrift Investment Board~~

7 ~~“(a) There is established in the executive branch of the~~
8 ~~Government a Civil Service Thrift Investment Board.~~

9 ~~“(b)(1) The Board shall be composed of—~~

10 ~~“(A) the Chairman of the Federal Reserve Board;~~

11 ~~“(B) the Secretary of the Treasury;~~

12 ~~“(C) the Director; and~~

13 ~~“(D) two representatives of Federal employee or-~~
14 ~~ganizations appointed by the President, one of whom~~
15 ~~shall be a representative from a labor organization (as~~
16 ~~defined in section 7103(a)(4) of this title) and one of~~
17 ~~whom shall be a representative from an organization~~
18 ~~for employees who are managers.~~

19 ~~“(2) If an office referred to in paragraph (1)(A), (1)(B),~~
20 ~~or (1)(C) of this subsection is vacant, the person acting as the~~
21 ~~officer in such office shall be a member of the Board while~~
22 ~~acting as such officer.~~

23 ~~“(3) The Chairman of the Federal Reserve Board shall~~
24 ~~be the Chairman of the Board.~~

1 ~~“(4) The members of the Board appointed under para-~~
2 ~~graph (1)(D) of this subsection shall serve until replaced by~~
3 ~~the President.~~

4 ~~“(e) The Board shall—~~

5 ~~“(1) establish policies and prescribe regulations~~
6 ~~for—~~

7 ~~“(A) the investment and management of the~~
8 ~~Thrift Savings Fund; and~~

9 ~~“(B) the administration of subchapter III of~~
10 ~~this chapter and the provisions of subchapter IV~~
11 ~~of this chapter which relate to survivor annuities~~
12 ~~payable out of the Thrift Savings Fund;~~

13 ~~“(2) review the performance of investments made~~
14 ~~for the Thrift Savings Fund;~~

15 ~~“(3) without regard to civil service and classifica-~~
16 ~~tion laws, fix the rate of pay of the Executive Direc-~~
17 ~~tor;~~

18 ~~“(4) supervise the Executive Director; and~~

19 ~~“(5) review and approve the budget of the Board.~~

20 ~~“(d)(1) The Board may—~~

21 ~~“(A) adopt, alter, and use a seal;~~

22 ~~“(B) adopt, amend, and repeal regulations to~~
23 ~~carry out its functions;~~

24 ~~“(C) disapprove any action of the Executive~~
25 ~~Director;~~

1 “(D) except as provided in paragraph (2) of this
2 subsection, direct the Executive Director to take such
3 action as the Board considers appropriate to carry out
4 the provisions of this subchapter and subchapter III of
5 this chapter, the provisions of subchapter IV of this
6 chapter which relate to survivor annuities payable out
7 of the Thrift Savings Fund, and the policies of the
8 Board;

9 “(E) upon the concurring votes of four members,
10 remove the Executive Director from office for good
11 cause shown; and

12 “(F) take such other action as may be necessary
13 to carry out the functions of the Board.

14 “(2) Except in the case of investments required by sec-
15 tion 8427 of this title to be invested in securities of the Gov-
16 ernment, the Board may not direct the Executive Director or
17 any contractor under a contract awarded under section
18 8403(c)(2) this title to invest or to cause to be invested any
19 sums in the Thrift Savings Fund in a specific asset or to
20 dispose of or cause to be disposed any specific asset of such
21 Fund.

22 “§ 8402. Civil Service Thrift Advisory Committee

23 “(a)(1) The Board shall establish a Civil Service Thrift
24 Advisory Committee (hereafter in this subchapter referred to
25 as the ‘Advisory Committee’).

1 “(2)(A) The Advisory Committee shall be composed of 6
2 members appointed as provided in subparagraph (B) of this
3 paragraph.

4 “(B) The members of the Advisory Committee shall be
5 appointed by action agreed to by a majority of the members
6 of the Board. Three of the members of the Advisory Commit-
7 tee shall be appointed from among investment asset manag-
8 ers not employed by the Government and three of the mem-
9 bers of the Advisory Committee shall be appointed from
10 among administrators of thrift savings plans established for
11 employees of private sector enterprises.

12 “(3) The Board shall prescribe the terms and conditions
13 of service of the members of the Advisory Committee.

14 “(b) The Advisory Committee shall—

15 “(1) advise the Board and the Executive Director
16 on matters relating to—

17 “(A)(i) investment policy for the Thrift Sav-
18 ings Fund;

19 “(ii) selection of the types of investment
20 funds which are appropriate for investment of
21 sums in the Thrift Savings Fund; and

22 “(iii) selection of investment managers for
23 the purpose of contracting for the administration
24 of investment funds under section 8493(e)(2) of
25 this title; and

1 “(B)(i) the performance of the duties of the
2 Board and the Executive Director under the pro-
3 visions of this subchapter and subchapter III of
4 this chapter and the provisions of subchapter IV
5 of this chapter which relate to survivor annuities
6 payable out of the Thrift Savings Fund; and

7 “(ii) the administration of such provisions;
8 and

9 “(2) review the performance of investments made
10 for the Thrift Savings Fund.

11 **“§ 8493. Executive Director**

12 “(a)(1) The Board shall appoint an Executive Director
13 by action agreed to by a majority of the members of the
14 Board. The Executive Director shall have substantial experi-
15 ence, training, or expertise in the management of financial
16 investments.

17 “(2) The Board shall prescribe the terms and conditions
18 of service of the Executive Director.

19 “(b) The Executive Director shall—

20 “(1) carry out the policies established by the
21 Board;

22 “(2) invest and manage the Thrift Savings Fund
23 in accordance with the investment and other policies
24 established by the Board;

1 “(3) provide for payment of annuities and other
2 authorized distributions from the Thrift Savings Fund
3 under this chapter; and

4 “(4) administer the provisions of this subchapter,
5 subchapter III of this chapter, the provisions of sub-
6 chapter IV of this chapter which relate to survivor an-
7 nuities payable out of the Thrift Savings Fund, and the
8 regulations prescribed by the Board.

9 “(e) The Executive Director, may—

10 “(1) without regard to civil service and classifica-
11 tion laws, appoint, employ, and fix the compensation of
12 such personnel as may be necessary to carry out the
13 provisions of this subchapter and subchapter III of this
14 chapter and the provisions of subchapter IV of this
15 chapter which relate to survivor annuities payable out
16 of the Thrift Savings Fund;

17 “(2) enter into such contracts or other arrange-
18 ments (including contracts for the performance of ad-
19 ministrative services), and make such modifications
20 thereof, as may be appropriate to carry out the provi-
21 sions of this subchapter and section 8427 of this title
22 and the policies of the Board;

23 “(3) except as provided in section 552a of this
24 title, obtain from any Federal agency, including any in-
25 dependent establishment or instrumentality of the

1 United States; advice; information; estimates; statistics;
2 and such other assistance as the Executive Director
3 considers necessary to carry out the provisions of this
4 subchapter and subchapter III of this chapter, the pro-
5 visions of subchapter IV of this chapter which relate to
6 survivor annuities payable out of the Thrift Savings
7 Fund; and the policies of the Board;

8 “(4) make such payments out of sums in the
9 Thrift Savings Fund as the Executive Director deter-
10 mines are necessary to carry out the provisions of this
11 subchapter, subchapter III of this chapter, the provi-
12 sions of subchapter IV of this chapter which relate to
13 survivor annuities payable out of the Thrift Savings
14 Fund; and the policies of the Board;

15 “(5) pay the compensation, per diem, and travel
16 expenses of personnel from the Thrift Savings Fund;

17 “(6) accept and utilize the services of individuals
18 employed intermittently in the Government service and
19 reimburse such individuals for travel expenses, as au-
20 thorized by section 5703 of this title, including per
21 diem as authorized by section 5702 of this title;

22 “(7) except as otherwise expressly prohibited by
23 law or the policies of the Board, delegate any of the
24 Executive Director's functions to such officers and em-
25 ployees under the Board as the Executive Director

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1 may designate and authorize such successive redelega-
2 tions of such functions to such officers and employees
3 under the Board as the Executive Director may con-
4 sider to be necessary or appropriate; and

5 “(8) take such other actions as are appropriate to
6 carry out the functions of the Executive Director.

7 **“§ 8494. Investment policy**

8 **“The Board shall develop investment policies under sec-**
9 **tion 8491(c)(1) of this title which provide for—**

10 **“(1) prudent investments suitable for accumulating**
11 **funds for payment of retirement income;**

12 **“(2) investment strategies which do not require a**
13 **significant level of active investment decisionmaking in**
14 **the case of the investment funds established under sub-**
15 **paragraphs (B) and (C) of section 8427(b)(1) of this**
16 **title;**

17 **“(3) low administrative costs; and**

18 **“(4) investments likely to receive broad accept-**
19 **ance by participants and the public.**

20 **“§ 8495. Administrative provisions**

21 **“(a) The Board shall meet—**

22 **“(1) not less than once during each fiscal year;**
23 **and**

24 **“(2) at additional times at the call of the Chair-**
25 **man.**

1 ~~“(b)(1) Except as provided in section 8491(d)(1)(E) of~~
2 ~~this title, the Board shall perform the functions and exercise~~
3 ~~the powers of the Board on a majority vote of a quorum of~~
4 ~~the Board.~~

5 ~~“(2) A vacancy on the Board shall not impair the au-~~
6 ~~thority of a quorum of the Board to perform the functions and~~
7 ~~exercise the powers of the Board.~~

8 ~~“(e) Three members of the Board shall constitute a~~
9 ~~quorum for the transaction of business.~~

10 ~~“(d)(1) Each member of the Board who is not a Federal~~
11 ~~employee and each member of the Advisory Committee shall~~
12 ~~be compensated at the daily rate of basic pay payable for~~
13 ~~grade GS-18 under the General Schedule for each day or~~
14 ~~part thereof during which such member is engaged in per-~~
15 ~~forming a function of the Board or Advisory Committee, as~~
16 ~~the case may be.~~

17 ~~“(2) Each member of the Board who is not a Federal~~
18 ~~employee and each member of the Advisory Committee shall~~
19 ~~be paid travel, per diem, and other necessary expenses under~~
20 ~~subchapter I of chapter 57 of this title while traveling away~~
21 ~~from his home or regular place of business in the performance~~
22 ~~of the duties of the Commission or Advisory Board, as the~~
23 ~~case may be.~~

1 “(e) The accrued annual leave of any employee who is a
2 member of the Board shall not be charged for any time used
3 in performing service for the Board during any work period.

4 “(f) Section 14(a)(2) of the Federal Advisory Committee
5 Act (86 Stat. 776; 5 U.S.C. App.) shall not apply to the
6 Advisory Committee.

7 “§ 8496. **Fiduciary responsibilities; liability and penalty**

8 “(a) For the purposes of this section—

9 “(1) the term ‘fiduciary’ means—

10 “(A) with respect to the Thrift Savings
11 Fund, each member of the Board and the Execu-
12 tive Director; and

13 “(B) any person who, with respect to the
14 Thrift Savings Fund, is described in section
15 3(21)(A) of the Employee Retirement Income Se-
16 curity Act of 1974 (29 U.S.C. 1002(21)(A));

17 “(2) the term ‘party in interest’ includes—

18 “(A) any fiduciary;

19 “(B) any counsel to a fiduciary;

20 “(C) any person providing services to the
21 Board or the Executive Director;

22 “(D) a labor organization the members of
23 which are participants;

24 “(E) a spouse, ancestor, lineal descendant, or
25 spouse of a lineal descendant of a person de-

1 scribed in subclause (A), (B), or (C) of this clause;
2 and

3 ~~“(F) a corporation, partnership, or trust or~~
4 ~~estate of which, or in which, 50 percent or more~~
5 ~~of—~~

6 ~~“(i) the combined voting power of all~~
7 ~~classes of stock entitled to vote or the total~~
8 ~~value of shares of all classes of stock of such~~
9 ~~corporation;~~

10 ~~“(ii) the capital interest or profits inter-~~
11 ~~est of such partnership; or~~

12 ~~“(iii) the beneficial interest of such trust~~
13 ~~or estate,~~

14 ~~is owned directly or indirectly, or held by a~~
15 ~~person described in subclause (A), (B), (C), or (E)~~
16 ~~of this clause; and~~

17 ~~“(3) the term ‘person’ means an individual, part-~~
18 ~~nership, joint venture, corporation, mutual company,~~
19 ~~joint-stock company, trust, estate, unincorporated orga-~~
20 ~~nization, association, or labor organization.~~

21 ~~“(b)(1) A fiduciary shall discharge his responsibilities~~
22 ~~with respect to the Thrift Savings Fund or applicable portion~~
23 ~~thereof solely in the interest of the participants and benefi-~~
24 ~~aries and—~~

25 ~~“(A) for the exclusive purpose of—~~

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1 “(i) providing benefits to participants and
2 their beneficiaries; and

3 “(ii) defraying reasonable expenses of admin-
4 istering the Thrift Savings Fund or applicable
5 portions thereof;

6 “(B) with the care, skill, prudence, and diligence
7 under the circumstances then prevailing that a prudent
8 individual acting in a like capacity and familiar with
9 such matters would use in the conduct of an enterprise
10 of a like character and with like objectives; and

11 “(C) to the extent permitted by section 8427 of
12 this title, by diversifying the investments of the Thrift
13 Savings Fund or applicable portions thereof so as to
14 minimize the risk of large losses, unless under the cir-
15 cumstances it is clearly prudent not to do so.

16 “(2) No fiduciary may maintain the indicia of ownership
17 of any assets of the Thrift Savings Fund outside the jurisdic-
18 tion of the district courts of the United States.

19 “(c) A fiduciary shall not—

20 “(1) deal with any assets of the Thrift Savings
21 Fund for his own account;

22 “(2) act, in his individual or any other capacity, in
23 any transaction involving the Thrift Savings Fund on
24 behalf of a party whose interests are adverse to the in-

1 terests of the Thrift Savings Fund or the interests of
2 its participants or beneficiaries;

3 ~~“(3) receive any consideration for his own person-~~
4 ~~al account from any party dealing with sums credited~~
5 ~~to the Thrift Savings Fund in connection with a trans-~~
6 ~~action involving assets of the Thrift Savings Fund,~~
7 ~~except fees which the fiduciary is entitled to receive as~~
8 ~~provided in a contract awarded under section~~
9 ~~8403(e)(2) of this title;~~

10 ~~“(4) permit the transfer of any assets of the Thrift~~
11 ~~Savings Fund to or the use of such assets by any~~
12 ~~person known to be a party in interest, except in~~
13 ~~return for adequate consideration; or~~

14 ~~“(5) permit the acquisition of any property from~~
15 ~~or services by any person known to be a party in inter-~~
16 ~~est, except in exchange for adequate consideration.~~

17 ~~“(d) This section does not prohibit any fiduciary from—~~

18 ~~“(1) receiving any benefit which the fiduciary is~~
19 ~~entitled to receive under this chapter as a participant,~~
20 ~~a former participant, or a beneficiary of a participant~~
21 ~~or former participant;~~

22 ~~“(2) receiving any reasonable compensation au-~~
23 ~~thorized by this title for services rendered, or for reim-~~
24 ~~bursement of expenses properly and actually incurred,~~

1 in the performance of the fiduciary's duties under this
2 chapter; or

3 ~~“(3) serving as a fiduciary in addition to being an~~
4 ~~officer, employee, agent, or other representative of a~~
5 ~~party in interest.~~

6 ~~“(c)(1)(A) Any fiduciary that breaches the responsibil-~~
7 ~~ities, duties, and obligations set out in subsection (b) of this~~
8 ~~section or violates subsection (c) of this section shall be liable~~
9 ~~to the Thrift Savings Fund for any losses to such fund result-~~
10 ~~ing from each such breach or violation and to restore to such~~
11 ~~fund any profits made by the fiduciary through use of assets~~
12 ~~of such fund by the fiduciary, and shall be subject to such~~
13 ~~other equitable or remedial relief as a court considers appro-~~
14 ~~priate. A fiduciary may be removed for a breach referred to~~
15 ~~in the preceding sentence.~~

16 ~~“(B) The Attorney General of the United States may~~
17 ~~assess a civil penalty against a party in interest engaging in a~~
18 ~~transaction prohibited by subsection (c) of this section. The~~
19 ~~amount of such penalty may not exceed 5 percent of the~~
20 ~~amount involved (as defined in section 4975(f)(4) of the Inter-~~
21 ~~nal Revenue Code of 1954); except that, if the transaction is~~
22 ~~not corrected (in such manner as the Attorney General shall~~
23 ~~prescribe by regulation consistent with section 4975(f)(5) of~~
24 ~~the Internal Revenue Code of 1954) within 90 days after the~~
25 ~~date the Attorney General transmits notice to the party in~~

1 interest (or such longer period as the Attorney General may
2 permit); such penalty may be in an amount not more than
3 100 percent of the amount involved.

4 “(C) A fiduciary shall not be liable under subparagraph
5 (A) of this paragraph with respect to a breach of fiduciary
6 duty under subsection (b) of this section committed before
7 becoming a fiduciary or after ceasing to be a fiduciary.

8 “(2) A civil action may be brought in the district courts
9 of the United States—

10 “(A) by the Attorney General of the United
11 States—

12 “(i) to determine and enforce a liability under
13 paragraph (1)(A) of this subsection; or

14 “(ii) to collect any civil penalty under para-
15 graph (1)(B) of this subsection; or

16 “(B) by the Attorney General of the United
17 States, any participant, annuitant, former participant
18 who is entitled to a deferred annuity under section
19 8412 of this title, other beneficiary, or fiduciary—

20 “(i) to enjoin any act or practice which vio-
21 lates any provision of subsection (b) or (c) of this
22 section; or

23 “(ii) to obtain any other appropriate equitable
24 relief to redress a violation of any such provision.

1 ~~“(3) An action may not be commenced under paragraph~~
 2 ~~(2) of this subsection with respect to a fiduciary’s breach of~~
 3 ~~any responsibility, duty, or obligation under subsection (b) of~~
 4 ~~this section or a violation of subsection (c) of this section after~~
 5 ~~the earlier of—~~

6 ~~“(A) 6 years after (i) the date of the last action~~
 7 ~~which constituted a part of the breach or violation; or~~
 8 ~~(ii) in the case of an omission, the latest date on which~~
 9 ~~the fiduciary could have cured the breach or violation;~~
 10 ~~or~~

11 ~~“(B) 3 years after the earliest date on which the~~
 12 ~~plaintiff had actual knowledge of the breach or viola-~~
 13 ~~tion; except that, in the case of fraud or concealment,~~
 14 ~~such action may be commenced not later than 6 years~~
 15 ~~after the date of discovery of such breach or viola-~~
 16 ~~tion.”.~~

17 ~~(b) The table of chapters at the beginning of part III of~~
 18 ~~such title is amended by inserting after the item relating to~~
 19 ~~chapter 83 the following new item:~~

~~“84. Civil Service Pension System..... 8401.”~~

20 ~~TITLE II—AMENDMENTS RELATING TO SOCIAL~~
 21 ~~SECURITY~~

22 ~~AMENDMENTS TO THE SOCIAL SECURITY ACT~~

23 ~~SEC. 201. Section 210(a)(5) of the Social Security Act~~
 24 ~~is amended—~~

1 (1) by striking out "or" at the end of subpara-
2 graph (F);

3 (2) by striking out the semicolon at the end of
4 subparagraph (G) and inserting in lieu thereof ", or";
5 and

6 (3) by adding at the end thereof the following new
7 subparagraph:

8 "(H) service performed by an individual after
9 such individual has commenced participation in
10 the Civil Service Pension System pursuant to sec-
11 tion 8471 of title 5, United States Code;".

12 ~~AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954~~

13 ~~SEC. 202. Section 3121(b)(5) of the Internal Revenue~~
14 ~~Code of 1954 is amended—~~

15 (1) by striking out "or" at the end of subpara-
16 graph (F);

17 (2) by striking out the semicolon at the end of
18 subparagraph (G) and inserting in lieu thereof ", or";
19 and

20 (3) by adding at the end thereof the following new
21 subparagraph:

22 "(H) service performed by an individual after
23 such individual has commenced participation in
24 the Civil Service Pension System pursuant to sec-
25 tion 8471 of title 5, United States Code;".

1 ~~TITLE III—MISCELLANEOUS AND CONFORMING~~
 2 ~~AMENDMENTS~~

3 ~~EXTENSION OF FEDERAL EMPLOYEES' RETIREMENT~~
 4 ~~CONTRIBUTION TEMPORARY ADJUSTMENT ACT OF 1983~~

5 ~~SEC. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A),~~
 6 ~~203(a)(4)(B), 204(a), 206(b)(2)(A)(i), and 206(c)(3) of the Fed-~~
 7 ~~eral Employees' Retirement Contribution Temporary Adjust-~~
 8 ~~ment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331 note) are~~
 9 ~~amended by striking out "January 1, 1986" each place it~~
 10 ~~appears and inserting in lieu thereof "January 1, 1987".~~

11 ~~(b) Section 205 of such Act is amended by striking out~~
 12 ~~"and 1986" in subsections (b) and (c) and inserting in lieu~~
 13 ~~thereof "1986, and 1987".~~

14 ~~MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF TITLE~~
 15 ~~5, UNITED STATES CODE~~

16 ~~SEC. 302. (a) Section 8331(1)(G) of title 5, United~~
 17 ~~States Code, is amended to read as follows:~~

18 ~~"(G) an individual first employed by the gov-~~
 19 ~~ernment of the District of Columbia before Janu-~~
 20 ~~ary 1, 1987;".~~

21 ~~(b) Section 8332 of such title is amended by adding at~~
 22 ~~the end thereof the following new subsection:~~

23 ~~"(n) Except as provided in section 8472(b) of this title,~~
 24 ~~service performed while a participant in the Civil Service~~
 25 ~~Pension System under chapter 84 of this title is not credita-~~
 26 ~~ble under this section."~~

1 (c)(1) The first sentence of section ~~8333(b)~~ of such title
2 is amended by inserting “or chapter 84 of this title” after
3 “subject to this subchapter”.

4 (2) Section ~~8333(c)~~ of such title is amended by adding at
5 the end thereof the following new sentence: “The require-
6 ments of the first sentence shall apply only with respect to
7 the civilian service performed by a Member while not a par-
8 ticipant in the Civil Service Pension System under chapter
9 84 of this title.”.

10 (d) Subsection (a) of section ~~8334~~ of such title is
11 amended—

12 (1) in the first sentence of paragraph (1), by strik-
13 ing out “The employing” and inserting in lieu thereof
14 “Except as provided in paragraph (2) of this subsec-
15 tion, the employing”; and

16 (2) by adding at the end thereof the following new
17 paragraph:

18 “~~(3)(A)~~ In the case of an employee or Member who was
19 subject to this subchapter before January 1, 1984, and whose
20 service—

21 “(i) is employment for the purposes of title II of
22 the Social Security Act and chapter 21 of the Internal
23 Revenue Code of 1954; and

24 “(ii) is not creditable service for any purpose
25 under chapter 84 of this title;

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1 an employing agency shall deduct and withhold from the
2 basic pay of the employee or Member under paragraph (1) of
3 this subsection during any pay period only the amount com-
4 puted pursuant to subparagraph (B) of this paragraph.

5 “(B) The amount deducted and withheld from basic pay
6 during any pay period pursuant to subparagraph (A) of this
7 paragraph in the case of an employee or Member referred to
8 in such subparagraph shall be the excess of—

9 “(i) the amount determined by multiplying the
10 percent applicable to the employee or Member under
11 paragraph (1) of this subsection by the basic pay pay-
12 able for such pay period; over

13 “(ii) the amount of the taxes deducted and with-
14 held from such basic pay under section 3101(a) of the
15 Internal Revenue Code of 1954 for such pay period.”.

16 (e) Section 8339 of such title is amended by adding at
17 the end thereof the following new subsection:

18 “(e)(1) Effective on the first day of the month in which
19 an annuitant or a survivor becomes 62 years of age, the an-
20 nuity or survivor annuity computed under the other subsec-
21 tions of this section shall be reduced by an amount equal to
22 the amount (if any) by which the annuitant's or survivor an-
23 nuitant's benefit under title II of the Social Security Act ex-
24 ceeds the amount of such benefit to which he would be enti-

1 tled if the service described in paragraph (2) of this subsec-
 2 tion were not taken into account.

3 “(2) The service described in this paragraph is the civil-
 4 ian service that is covered by amounts deducted and withheld
 5 as provided in section 8324(a)(2) of this title and is taken into
 6 account for the purpose of computing—

7 “(A) the annuity or survivor annuity; and

8 “(B) benefits under such title of the Social Securi-
 9 ty Act.”.

10 (f) Section 8347(a) of such title is amended by adding at
 11 the end thereof the following: “The Office may contract for
 12 the performance of administrative services necessary to carry
 13 out its responsibilities under this subchapter.”.

14 (g) Section 8348(a) of such title is amended—

15 (1) in paragraph (1)(A), by inserting “or the provi-
 16 sions of chapter 84 of this title which relate to benefits
 17 payable out of the Fund” after “subchapter”; and

18 (2) in paragraph (2), by inserting “, chapter 84 of
 19 this title,” after “chapter”.

20 CONFORMING PROVISIONS FOR THE POSTAL SERVICE

21 RETIREMENT SYSTEM

22 SEC. 303. Section 1005(d) of title 39, United States
 23 Code, is amended to read as follows:

24 “(d) Officers and employees of the Postal Service (other
 25 than the Governors) shall be covered by chapters 83 and 84
 26 of title 5 according to the provisions of such chapters. The

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1 Postal Service shall withhold from pay and shall pay into the
 2 Civil Service Retirement and Disability Fund the amounts
 3 specified in or determined under such chapter 83. The Postal
 4 Service shall pay into the Civil Service Retirement and Dis-
 5 ability Fund the amounts specified or determined under sub-
 6 chapters II and V of such chapter 84. The Postal Service
 7 shall pay into the Civil Service Thrift Savings Fund the
 8 amounts specified in or determined under subchapter III of
 9 such chapter 84.”.

10 GROUP LIFE INSURANCE FOR CERTAIN PARTICIPANTS IN
 11 THE CIVIL SERVICE PENSION SYSTEM

12 SEC. 304. (a) Subsection (b) of section 8702 of title 5,
 13 United States Code, is amended—

14 (1) by inserting “(1)” after “(b)”; and

15 (2) by adding at the end thereof the following new
 16 paragraph:

17 “(2) Paragraph (1) of this subsection shall not apply to
 18 an employee who is required by section 8402 of this title to
 19 be a participant in the Civil Service Pension System.”.

20 (b) Subsection (a) of section 8707 of such title is
 21 amended—

22 (1) by striking out “(a) During” and inserting in
 23 lieu thereof “(a)(1) Except as provided in paragraph (2)
 24 of this subsection, during”; and

25 (2) by adding at the end thereof the following new
 26 paragraph:

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1 (B) by inserting “or 8434” after “8341(h)”;

2 and

3 (2) in subparagraph (C)(ii)—

4 (A) by inserting “or 8434” after “8341(h)”;

5 and

6 (B) by inserting “or 8467” after “8345(j)”.

7 (b)(1) Subsection (b) of section 8905 of such title is
8 amended—

9 (A) by redesignating subparagraphs (A), (B), and
10 (C) of paragraph (1) as clauses (i), (ii), and (iii), respec-
11 tively;

12 (B) by redesignating paragraphs (1) and (2) as
13 subparagraphs (A) and (B), respectively;

14 (C) by inserting “(1)” after “(b)”;

15 (D) by adding at the end thereof the following
16 new paragraph (2):

17 “(2) A member of family of a deceased employee or an-
18 nuitant who was enrolled in a health benefit plan under this
19 chapter on the date of death of the employee or annuitant
20 may continue the enrollment under the conditions of eligibil-
21 ity prescribed in regulations issued by the Office.”

22 (2) Subsection (c)(1) of such section is amended—

23 (A) in subparagraph (B), by inserting “or
24 8435(a)(1)”;

25 (B) in the second sentence—

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1 (i) by inserting "or 8434" after "8341(h)";

2 and

3 (ii) by inserting "or 8467" after "8345(j)".

4 EMPLOYEES OF CERTAIN NONAPPROPRIATED FUND

5 INSTRUMENTALITIES

6 SEC. 306. Section 2105(c) of title 5, United States
7 Code, is amended by inserting ", chapter 84," after "chapter
8 81" in clause (2) of the first sentence.

9 TITLE IV—AUTHORIZATION AND EFFECTIVE
10 DATES

11 FIRST YEAR EXPENSES OF THE CIVIL SERVICE THRIFT

12 INVESTMENT MANAGEMENT SYSTEM

13 SEC. 401. (a) Notwithstanding section 8426(c)(3) of title
14 5, United States Code, as added by section 101 of this Act,
15 the expenses incurred in the administration of the Civil Serv-
16 ice Thrift Investment Management System prescribed in sub-
17 chapter VIII of chapter 84 of such title, as added by section
18 101 of this Act, during fiscal years 1986 and 1987 shall be
19 paid from sums appropriated pursuant to subsection (b).

20 (b) There are authorized to be appropriated to the Civil
21 Service Thrift Investment Board, for fiscal years 1986 and
22 1987, such sums as may be necessary to pay the expenses
23 incurred in the administration of the Civil Service Thrift In-
24 vestment Management System prescribed in subchapter VIII
25 of chapter 84 of title 5, United States Code, as added by
26 section 101 of this Act, during such fiscal years.

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1 **EFFECTIVE DATES**

2 ~~SEC. 402. (a) Except as provided in subsection (b), this~~
3 ~~Act and the amendments made by this Act shall take effect~~
4 ~~January 1, 1987.~~

5 ~~(b) Subchapter VIII of chapter 84 of title 5, United~~
6 ~~States Code (relating to the Civil Service Thrift Investment~~
7 ~~Management System), as added by section 101, shall take~~
8 ~~effect on the date of enactment.~~

9 ~~(c) The program required by section 8426(c) of title 5,~~
10 ~~United States Code, as added by section 101(a) of this Act,~~
11 ~~shall be established not later than January 1, 1988.~~

12 *That this Act may be cited as the "Federal Retirement*
13 *Reform Act of 1985".*

14 **PURPOSES**

15 *SEC. 2. The purposes of this Act are—*

16 *(1) to provide Federal employees with a retire-*
17 *ment benefits plan which is comparable to good private*
18 *sector retirement benefits plans;*

19 *(2) to assist in building a quality career work*
20 *force in the Federal Government;*

21 *(3) to promote financial stability and flexibility*
22 *for the future of each Federal employee;*

23 *(4) to ensure a fully funded and financially*
24 *sound Federal Government retirement benefits plan;*

1 (5) to enhance portability of retirement assets be-
 2 tween Federal jobs and jobs outside the Federal Gov-
 3 ernment;

4 (6) to increase the options of each Federal em-
 5 ployee with respect to retirement benefits plans;

6 (7) to encourage Federal employees to increase
 7 personal savings for retirement;

8 (8) to include Federal employees in the invest-
 9 ment decisionmaking process with respect to the assets
 10 of the retirement system; and

11 (9) to extend financial protection from disability
 12 to additional Federal employees and to increase such
 13 protection for eligible Federal employees.

14 *TITLE I—FEDERAL RETIREMENT SYSTEM*

15 *ESTABLISHMENT*

16 *SEC. 101. (a) Title 5, United States Code, is amended*
 17 *by inserting after chapter 83 the following new chapter:*

18 “CHAPTER 84—FEDERAL RETIREMENT SYSTEM

“SUBCHAPTER I—DEFINITIONS; FEDERAL RETIREMENT SYSTEM

“Sec.

“8401. Definitions.

“8402. Federal Retirement System; participation.

“8403. Relationship to the Social Security Act.

“SUBCHAPTER II—BASIC PLAN

“8411. Entitlement to immediate retirement.

“8412. Entitlement to deferred retirement.

“8413. Computation of annuity.

“8414. Reduction for early retirement.

“8415. Reduction for survivor annuities.

“8416. Methods of payments.

“8417. Level benefits option.

“8418. Contributions.

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- "8419. *Funding of annuity attributable to military service.*
- "8420. *Lump-sum benefits; designation of beneficiaries; order of precedence.*

"SUBCHAPTER III—THRIFT SAVINGS PLAN

- "8421. *Contributions.*
- "8422. *Vesting.*
- "8423. *Entitlement and elections relating to entitlement.*
- "8424. *Annuities: methods of payment; election; and computation.*
- "8425. *Administrative provisions relating to payments and elections.*
- "8426. *Thrift Savings Fund.*
- "8427. *Investment of Thrift Savings Fund.*
- "8428. *Accounting.*

"SUBCHAPTER IV—SURVIVOR BENEFITS

- "8431. *Basic plan spousal benefits relating to the death of a participant or former participant other than an annuitant.*
- "8432. *Basic plan spousal and insurable interest benefits relating to the death of an annuitant.*
- "8433. *Survivor benefits under the thrift savings plan.*
- "8434. *Basic and thrift savings plan survivor benefits relating to marriage after commencement of an annuity.*
- "8435. *Survivor benefits for former spouses: entitlements; amount.*
- "8436. *Survivor benefits for former spouses: elections, deposits and collections, and administrative provisions.*
- "8437. *Termination of entitlement.*
- "8438. *Deposits to the Fund.*

"SUBCHAPTER V—DISABILITY BENEFITS

- "8441. *Definitions.*
- "8442. *Entitlement.*
- "8443. *Computation of benefits.*
- "8444. *Application.*
- "8445. *Medical examinations.*
- "8446. *Offers of alternative employment.*
- "8447. *Recovery or restoration of earning capacity.*
- "8448. *Relationship to workers' compensation.*
- "8449. *Military reserve technicians.*
- "8450. *Administrative provisions.*
- "8451. *Annual accounting; special contingency reserve.*
- "8452. *Federal Employees' Disability Insurance Fund.*

"SUBCHAPTER VI—GENERAL AND ADMINISTRATIVE PROVISIONS

- "8461. *Authority of the Office of Personnel Management.*
- "8462. *Cost-of-living adjustment in basic plan annuities, survivor annuities, and disability benefits.*
- "8463. *Rate of benefits.*
- "8464. *Commencement and termination of annuities.*
- "8465. *Waiver, allotment, and assignment of benefits.*
- "8466. *Application for benefits.*
- "8467. *Court orders.*
- "8468. *Annuities and pay on reemployment.*
- "8469. *Information.*

"SUBCHAPTER VII—TRANSITION PROVISIONS

"8471. Treatment of certain individuals subject to the Civil Service Retirement and Disability System.

"8472. Special rules for participants retaining entitlement in the Civil Service Retirement and Disability System.

"8473. Participants subject to the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983.

"8474. Reemployed annuitants under a Government retirement system.

"8475. Exemption from certain offset provisions of the Social Security Act.

"8476. *Regulations.*

*“SUBCHAPTER VIII—FEDERAL RETIREMENT THRIFT INVESTMENT
MANAGEMENT SYSTEM*

"8491. Federal Retirement Thrift Investment Board.

"8492. Federal Retirement Thrift Advisory Committee.

"8493. *Employee Advisory Committee.*

"8494. *Executive Director.*

"8495. *Investment policy.*

"8496. *Administrative provisions.*

"8497. Fiduciary responsibilities; liability and penalty.

"8498. *Bonding.*

"8499. *Exculpatory provisions; insurance.*

1 “SUBCHAPTER I—DEFINITIONS; FEDERAL RETIREMENT
2 SYSTEM

3 “§ 8401. Definitions

4 *“Except as otherwise provided in this chapter, for the*
5 *purposes of this chapter—*

6 “(1) the term ‘account’, when used with respect to
7 a participant or annuitant, means an account estab-
8 lished and maintained under section 8428(a) of this
9 title;

10 “(2) the term ‘annuitant’ means a former partici-
11 pant who is entitled to an annuity under this chapter
12 and who has applied under this chapter for the pay-
13 ment of the annuity to commence;

“(3) the term ‘average pay’, when used with re-
spect to a participant, means the largest annual rate

1 *resulting from averaging the participant's rates of basic*
2 *pay in effect over any 5 consecutive years of creditable*
3 *service or, in the case of an annuity under this chapter*
4 *based on service of less than 5 years, over the total*
5 *service, with each rate weighted by the period it was in*
6 *effect;*

7 *“(4) the term ‘basic pay’, when used with respect*
8 *to a participant—*

9 *“(A) means the lesser of—*

10 *“(i) the basic pay of the participant es-*
11 *tablished pursuant to law, without regard to*
12 *any provision of law (except sections 5308*
13 *and 5382(b) of this title) limiting the rate of*
14 *pay actually payable in any pay period (in-*
15 *cluding any provision of law restricting the*
16 *use of appropriated funds); or*

17 *“(ii) the rate of basic pay payable for*
18 *level I of the Executive Schedule; and*

19 *“(B) includes the items described in sub-*
20 *paragraphs (A) through (D) of paragraph (3) of*
21 *section 8331 of this title and does not include the*
22 *items excluded by such paragraph;*

23 *“(5) the term ‘Board’ means the Federal Retire-*
24 *ment Thrift Investment Board established by section*
25 *8491(a) of this title;*

1 “(6) the term ‘Civil Service Retirement and Dis-
2 ability Fund’ means the Civil Service Retirement and
3 Disability Fund referred to in section 8348 of this
4 title;

5 “(7) the term ‘court’, when used with respect to a
6 judgment, decree, order, or other judicial action, means
7 any court of the United States, a State, the District of
8 Columbia, the Commonwealth of Puerto Rico, or a ter-
9 ritory or possession of the United States, or any
10 Indian court, having jurisdiction to issue such judg-
11 ment, decree, or order or to take such other judicial
12 action;

13 “(8) the term ‘Director’ means the Director of the
14 Office of Personnel Management;

15 “(9) the term ‘dynamic assumptions’ means eco-
16 nomic assumptions that are used in determining actu-
17 arial costs and liabilities of a retirement system and in
18 anticipating the effects of long-term future—

19 “(A) investment yields,

20 “(B) increases in rates of basic pay, and

21 “(C) rates of price inflation;

22 “(10) the term ‘earnings’, when used with respect
23 to the Thrift Savings Fund, means the amount of the
24 gain experienced or yield received from the investment
25 of sums in such fund;

1 “(11) the term ‘eligible former spouse’, when used
2 with respect to a participant or former participant,
3 means a former spouse of the participant or former
4 participant who was married to the participant or
5 former participant for at least 9 months;

6 “(12) the term ‘employee’ means—

7 “(A) each individual referred to in subpara-
8 graphs (A), (E), (F), (H), (I), and (J) of section
9 8331(1) of this title, including an employee of the
10 United States Park Police and an employee of the
11 United States Secret Service; and

12 “(B) a Congressional employee as defined in
13 section 2107 of this title, including a temporary
14 Congressional employee;

15 any of whose employment by the Government after De-
16 cember 31, 1983, is employment for the purposes of
17 title II of the Social Security Act and chapter 21 of
18 the Internal Revenue Code of 1954, except that such
19 term does not include any individual referred to in
20 clause (i), (ii), (v), (vi), or (ix) of paragraph (1) of sec-
21 tion 8331 of this title or in the undesignated material
22 after clause (ix) of such paragraph, any individual ex-
23 cluded under section 8402(b)(2) of this title, or any in-
24 dividual who was subject to subchapter III of chapter
25 83 of this title on December 31, 1983, has not had a

1 *break in employment by the Government for a period*
2 *of more than 1 year beginning after such date, and has*
3 *not commenced participation in the System pursuant*
4 *to section 8471 of this title;*

5 “(13) the term ‘Employee Advisory Committee’
6 *means the Employee Advisory Committee established*
7 *in accordance with section 8493 of this title;*

8 “(14) the term ‘Executive Director’ means the
9 *Executive Director appointed under section 8494(a)(1)*
10 *of this title;*

11 “(15) the term ‘firefighter’ means—

12 “(A) an employee the duties of whose
13 *position—*

14 “(i) are primarily to perform work di-
15 *rectly connected with the control and extin-*
16 *guishment of fires; and*

17 “(ii) are sufficiently rigorous that em-
18 *ployment opportunities are required to be*
19 *limited to young and physically vigorous in-*
20 *dividuals, as determined by the Director con-*
21 *sidering the recommendation of the employ-*
22 *ing agency; and*

23 “(B) an employee who is transferred directly
24 *to a supervisory or administrative position after*

1 *performing duties described in subparagraph (A)*
2 *of this paragraph for at least 10 years;*

3 *“(16) the term ‘Fund’ means the Civil Service*
4 *Retirement and Disability Fund;*

5 *“(17) the term ‘Government’ means the Federal*
6 *Government and Gallaudet College;*

7 *“(18) the term ‘law enforcement officer’ means—*
8 *“(A) an employee, the duties of whose posi-*
9 *tion—*

10 *“(i) are primarily (I) the investigation,*
11 *apprehension, or detention of individuals*
12 *suspected or convicted of offenses against the*
13 *criminal laws of the United States, or (II)*
14 *the protection of officials of the United*
15 *States against threats to personal safety; and*

16 *“(ii) are sufficiently rigorous that em-*
17 *ployment opportunities are required to be*
18 *limited to young and physically vigorous in-*
19 *dividuals, as determined by the Director con-*
20 *sidering the recommendation of the employ-*
21 *ing agency; and*

22 *“(B) an employee who is transferred directly*
23 *to a supervisory or administrative position after*
24 *performing duties described in subparagraph (A)*
25 *of this paragraph for at least 10 years;*

1 “(19) the term ‘loss’, when used with respect to
2 the Thrift Savings Fund, means the amount of the loss
3 experienced from the investment of sums in such fund;

4 “(20) the term ‘lump-sum credit’ has the same
5 meaning as provided by section 8331(8) of this title;

6 “(21) the term ‘Member’ has the same meaning as
7 provided in section 2106 of this title, except that such
8 term does not include a person who (A) was a Member
9 of Congress on December 31, 1983, and (B) has not
10 commenced participation in the System pursuant to
11 section 8471 of this title;

12 “(22) the term ‘military reserve technician’ means
13 a member of one of the reserve components of the
14 Armed Forces specified in section 261(a) of title 10
15 who—

16 “(A) is assigned to a civilian position as a
17 technician in the administration and training of
18 such reserve components or in the maintenance
19 and repair of supplies issued to such reserve com-
20 ponents; and

21 “(B) as a condition of employment in such
22 position, is required to be a member of one of such
23 reserve components serving in a specified military
24 grade;

1 “(23) the term ‘net earnings’ means the excess of
2 earnings over losses;

3 “(24) the term ‘net losses’ means the excess of
4 losses over earnings;

5 “(25) the term ‘normal cost’ means the entry-age
6 normal cost of the provisions of the System which
7 relate to the Fund, computed by the Office in accord-
8 ance with generally accepted actuarial practice and
9 standards (using dynamic assumptions) and expressed
10 as a level percentage of aggregate basic pay, and shall
11 be used to value the cost of the System for all purposes
12 in which the cost of the System is required to be
13 determined;

14 “(26) the term ‘Office’ means the Office of Per-
15 sonnel Management;

16 “(27) the term ‘participant’ means an employee or
17 Member or a person who is receiving disability benefits
18 under subchapter V of this chapter;

19 “(28) the term ‘price index’ has the same mean-
20 ing as provided in section 8331(15) of this title;

21 “(29) the term ‘service’, when used with respect to
22 a participant or former participant, means—

23 “(A) employment as a participant after De-
24 cember 31, 1986;

1 “(B) service which is creditable under sec-
2 tion 8473 of this title;

3 “(C) subject to section 8419(a) of this title,
4 military service as provided in section 8332(c) of
5 this title;

6 “(D) service that is creditable under sub-
7 chapter III of chapter 83 of this title, but only for
8 the purposes provided in section 8472(a) of this
9 title; and

10 “(E) leaves of absence commencing after De-
11 cember 31, 1986, under the same conditions and
12 subject to the same limitations as are prescribed
13 in section 8332(f) of this title; and
14 is computed as the full years and twelfth parts thereof,
15 excluding from the aggregate the fractional part of a
16 month, if any;

17 “(30) the term ‘supplemental liability’ means the
18 estimated excess of—

19 “(A) the actuarial present value of all future
20 benefits payable from the Fund under this chap-
21 ter, over

22 “(B) the sum of—

23 “(i) the actuarial present value of the
24 future contributions to be made on behalf of

1 *participants pursuant to section 8418(a) of*
2 *this title; and*

3 “(ii) *the balance which is in the Fund*
4 *on the date the supplemental liability is de-*
5 *termined and is attributable to the System or*
6 *to contributions made under section 204(b)*
7 *or 205 of the Federal Employees’ Retirement*
8 *Contribution Temporary Adjustment Act of*
9 *1983 (97 Stat. 1106; 5 U.S.C. 8331 note);*
10 *and*

11 “(31) *the term ‘System’ means the Federal Re-*
12 *irement System described in section 8402(a) of this*
13 *title.*

14 **“§ 8402. Federal Retirement System; participation**

15 “(a) *The provisions of this chapter comprise the Federal*
16 *Retirement System.*

17 “(b)(1) *Except as provided in paragraph (2) of this sub-*
18 *section, each employee and Member shall be a participant in*
19 *the System.*

20 “(2)(A) *The Office may exclude from the operation of*
21 *this chapter an employee or group of employees in or under*
22 *an Executive agency whose employment is temporary or*
23 *intermittent, except an employee whose employment is part-*
24 *time career employment (as defined in section 3401(2) of this*
25 *title).*

1 “(B) *The Architect of the Capitol may exclude from the*
2 *operation of this chapter an employee under the Office of the*
3 *Architect of the Capitol whose employment is temporary or of*
4 *uncertain duration.*

5 “(C) *The Librarian of Congress may exclude from the*
6 *operation of this chapter an employee under the Library of*
7 *Congress whose employment is temporary or of uncertain*
8 *duration.*

9 **“§ 8403. Relationship to the Social Security Act**

10 *“Except as otherwise provided in this chapter, the bene-*
11 *fits payable under the System are in addition to the benefits*
12 *payable under the Social Security Act.*

13 **“SUBCHAPTER II—BASIC PLAN**

14 **“§ 8411. Entitlement to immediate retirement**

15 “(a) *An employee or a Member who is separated from*
16 *Government employment after becoming 55 years of age and*
17 *completing 10 years of service is entitled to an immediate*
18 *annuity.*

19 “(b) *An employee or a Member who is separated from*
20 *Government employment after becoming 62 years of age and*
21 *completing 5 years of service is entitled to an immediate*
22 *annuity.*

23 “(c) *An employee who is separated from Government*
24 *employment—*

1 “(1) after becoming 50 years of age and complet-
2 ing 20 years of service as a law enforcement officer or
3 firefighter, or any combination of such service totaling
4 at least 20 years, or

5 “(2) after completing 25 years of service as a law
6 enforcement officer or firefighter, or any combination of
7 such service totaling at least 25 years,
8 is entitled to an immediate annuity. The provisions of section
9 8335(b) of this title, relating to mandatory separation, shall
10 apply to a participant who is a law enforcement officer or a
11 firefighter.

12 “(d) An employee who is separated from Government
13 employment—

14 “(1) after becoming 50 years of age and complet-
15 ing 20 years of service as an air traffic controller, or

16 “(2) after completing 25 years as an air traffic
17 controller,

18 is entitled to an immediate annuity. The provisions of section
19 8335(a) of this title, relating to mandatory separation, shall
20 apply to a participant who is an air traffic controller.

21 “(e)(1) Except as provided in paragraphs (2) and (3) of
22 this subsection, any employee who has completed 25 years of
23 service, or is not less than 50 years of age and has completed
24 20 years of service, and who—

1 “(A) is separated from Government employment
2 involuntarily, except by removal for cause on charges
3 of misconduct or delinquency, or

4 “(B) while serving in a geographic area designat-
5 ed by the Director, is voluntarily separated from Gov-
6 ernment employment during a period that (as deter-
7 mined by the Director)—

8 “(i) the agency in which the employee is
9 serving is undergoing a major reorganization, a
10 major reduction in force, or a major transfer of
11 function, and

12 “(ii) a significant percentage of the total
13 number of employees serving in such agency will
14 be separated or subject to an immediate reduction
15 in the rate of basic pay (without regard to sub-
16 chapter VI of chapter 53 of this title or compara-
17 ble provisions),

18 is entitled to an immediate annuity.

19 “(2) An employee described in paragraph (1)(A) of this
20 subsection is not entitled to an annuity under this subsection
21 if the employee has declined a reasonable offer of another
22 position in the employee’s agency for which the employee is
23 qualified and the offered position is not lower than 2 grades
24 or pay levels below the employee’s grade or pay level and is
25 within the employee’s commuting area.

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1 “(3) Paragraph (2) of this subsection shall not apply to
2 a firefighter, law enforcement officer, or air traffic controller.

3 “(f) An annuity authorized by this section is computed
4 under sections 8413 through 8415 of this title.

5 “(g) A former employee or Member who is entitled to
6 benefits under subchapter I of chapter 81 of this title is not
7 entitled to an annuity under this section while receiving such
8 benefits.

9 **“§ 8412. Entitlement to deferred retirement**

10 “(a) A participant who is under 55 years of age and
11 separates from Government employment after completing 10
12 years of service is entitled to an annuity to commence on or
13 after the date the participant becomes 55 years of age but not
14 later than the date the participant becomes 62 years of age, as
15 elected by the participant under rules prescribed by the
16 Office.

17 “(b) A participant who is under 62 years of age and
18 separates from Government employment after completing 5
19 years of service and before completing 10 years of service is
20 entitled to an annuity to commence on the date the partici-
21 pant becomes 62 years of age.

22 “(c) An annuity authorized by this section is computed
23 under sections 8413 through 8415 of this title.

24 “(d) A former employee or Member who is entitled to
25 benefits under subchapter I of chapter 81 of this title is not

1 *entitled to an annuity under this section while receiving such*
2 *benefits.*

3 ***“§ 8413. Computation of annuity***

4 *“(a)(1) Except as provided in paragraph (2) of this sub-*
5 *section and section 8414 or 8415 of this title, the amount of*
6 *the annuity an annuitant is entitled to receive under this*
7 *subchapter shall be equal to—*

8 *“(A) 0.9 percent of the annuitant’s average pay*
9 *multiplied by so much of an annuitant’s total service*
10 *as does not exceed 15 years; and*

11 *“(B) 1.1 percent of the annuitant’s average pay*
12 *multiplied by so much of the annuitant’s total service*
13 *as exceeds 15 years.*

14 *“(2) In the case of a participant whose service includes*
15 *service in the position of a law enforcement officer, firefight-*
16 *er, air traffic controller, or military reserve technician, the*
17 *percent applicable to the service in such position for the pur-*
18 *poses of paragraph (1) of this subsection is 1 percent.*

19 *“(3) For the purposes of computing the amount of an*
20 *annuity under paragraphs (1) and (2) of this subsection, the*
21 *total service of a participant who separates from Government*
22 *employment entitled to an immediate annuity or who dies*
23 *leaving a survivor or survivors entitled to a survivor annuity*
24 *under this chapter includes days of unused sick leave credited*
25 *to the participant under a formal leave system to the same*

1 *extent that unused sick leave is credited in computing an*
2 *annuity of a person who is subject to subchapter III of chap-*
3 *ter 83 of this title, as provided in section 8339(m) of this*
4 *title.*

5 “(b)(1) *A former participant who is entitled to receive*
6 *an annuity under subsection (c) or (d) of section 8411 of this*
7 *title shall also be entitled to receive an annuity supplement,*
8 *in addition to the amount of the annuity computed under*
9 *subsection (a) of this section, while the former participant is*
10 *under 62 years of age.*

11 “(2) *The amount of the annuity supplement payable to*
12 *a former participant under paragraph (1) of this subsection*
13 *shall be equal to the estimated amount of the benefits that—*

14 “(A) *the former participant would be entitled to*
15 *receive under title II of the Social Security Act if the*
16 *participant were 62 years of age on the date the annu-*
17 *ity referred to in such paragraph commences; and*

18 “(B) *is attributable to service referred to in sec-*
19 *tion 8411(c) or 8411(d) of this title, as the case may*
20 *be,*

21 *computed on the date such annuity commences and increased*
22 *as provided in paragraph (3) of this subsection.*

23 “(3) *Effective on January 1 of each year, the amount of*
24 *the annuity supplement payable to a former participant*
25 *under this subsection shall be increased by the percentage*

1 increase, if any, in the SSA average wage index (as defined
2 in section 215(i)(1)(G) of the Social Security Act) published
3 for November of the immediately preceding year over such
4 index published for November of the year ending immediate-
5 ly before such preceding year.

6 “(c) In computing under this section the annuity of an
7 individual who has performed service on less than a full-time
8 basis, such service shall be credited on a proportional basis
9 equal to the fraction that such service is of full-time service,
10 and the annual rate of basic pay that would be payable for
11 full-time service in the position shall be deemed to be the rate
12 of basic pay.

13 **“§ 8414. Reduction for early retirement**

14 “(a) Except as provided in subsection (b) and (c) of this
15 section, the annuity computed under section 8413(a) of this
16 title (without regard to this section or section 8415 of this
17 title)—

18 “(1) for an annuitant, other than an annuitant
19 referred to in paragraph (2) or (3)(A) of this subsec-
20 tion, who is under 62 years of age on the date on
21 which the annuitant’s annuity commences shall be re-
22 duced by one-sixth of 1 percent for each full month
23 that the annuitant is under such age on such date;

24 “(2) for an annuitant, other than an annuitant
25 entitled to an immediate annuity under section 8411(e)

1 *of this title, who is at least 55 years of age and is*
2 *under 62 years of age on the date on which the annu-*
3 *itant's annuity commences and has not completed 30*
4 *years of service shall be reduced by five-twelfths of 1*
5 *percent for each full month that the annuitant is under*
6 *62 years of age on such date; and*

7 *“(3) for an annuitant who—*

8 *“(A) separated from Government employ-*
9 *ment as a military reserve technician entitled to*
10 *an immediate annuity under section 8411(e) of*
11 *this title, and*

12 *“(B) is under 55 years of age on the date on*
13 *which the annuitant's annuity commences,*
14 *shall be reduced by one-sixth of 1 percent for each full*
15 *month that the annuitant is under such age on such*
16 *date.*

17 *“(b) Subsection (a) of this section shall not apply in the*
18 *case of—*

19 *“(1) a participant who separates from Govern-*
20 *ment employment entitled to an immediate annuity*
21 *under section 8411(c) or 8411(d) of this title; or*

22 *“(2) an annuitant who has elected to make contri-*
23 *butions under section 8418(c) of this title and has not*
24 *received a refund of such contributions under section*
25 *8420 of this title, is at least 55 years of age on the*

1 *date on which the annuitant's annuity commences, and*
2 *has completed 30 years of service.*

3 “(c) Subsection (a)(1) of this section shall not apply to
4 *a participant who separates from Government employment as*
5 *a military reserve technician after becoming 55 years of age*
6 *and completing 30 years of service.*

7 **“§ 8415. Reduction for survivor annuities**

8 “(a) The annuity of an annuitant computed under sec-
9 *tion 8413 of this title and, if appropriate, under section 8414*
10 *of this title shall be reduced by 10 percent for each survivor*
11 *annuity which is expected to be payable out of the Fund with*
12 *respect to the annuitant under this chapter.*

13 “(b)(1) A reduction of an annuity pursuant to subsec-
14 *tion (a) of this section in the case of an annuitant who has*
15 *elected to make contributions under section 8418(c) of this*
16 *title and has not received a refund of such contributions*
17 *under section 8420 of this title shall be adjusted, as appropri-*
18 *ate to carry out such subsection, to reflect any change in*
19 *circumstances relating to entitlement to a survivor annuity,*
20 *including any election made pursuant to section 8434(a),*
21 *8436(b), or 8436(c) of this title and any termination of an*
22 *entitlement to a survivor annuity.*

23 “(2) An adjustment may not be made under paragraph
24 (1) of this subsection in the case of an annuitant not de-
25 scribed in such paragraph.

1 ***“§ 8416. Methods of Payment***

2 “(a)(1) *The Office shall prescribe methods of payment*
3 *of annuities under this subchapter.*

4 “(2) *The methods of payment prescribed under para-*
5 *graph (1) of this subsection shall include, but not be limited*
6 *to—*

7 “(A) *a method which provides for the payment of*
8 *a monthly annuity only to an annuitant during the life*
9 *of the annuitant;*

10 “(B) *a method which provides for the payment of*
11 *a monthly annuity to an annuitant and a monthly sur-*
12 *vivor annuity equal to 50 percent of the annuitant’s*
13 *annuity on the date of the annuitant’s death (computed*
14 *without regard to section 8415 of this title and any*
15 *election under section 8417(a) of this title) to the an-*
16 *nuitant’s surviving spouse, if any; and*

17 “(C) *a method which provides for the payment of*
18 *a monthly annuity to an annuitant and a monthly sur-*
19 *vivor annuity equal to 50 percent of the annuitant’s*
20 *annuity on the date of the annuitant’s death (computed*
21 *without regard to an election under section 8417(a) of*
22 *this title) to an individual who is designated by the*
23 *annuitant and who has an insurable interest in the*
24 *annuitant.*

25 “(b)(1) *Subject to paragraphs (2) and (3) of this subsec-*
26 *tion—*

1 “(A) under such regulations as the Office shall
2 prescribe, a participant or former participant who is
3 applying for an annuity under this subchapter to com-
4 mence shall elect one of the methods of payment pre-
5 scribed by the Office under subsection (a) of this sec-
6 tion; and

7 “(B) the annuity of an annuitant under this sub-
8 chapter shall be paid in accordance with the method of
9 payment elected by the annuitant pursuant to subpara-
10 graph (A) of this paragraph.

11 “(2)(A) A participant or former participant who is mar-
12 ried on the date on which the participant or former partici-
13 pant applies for an annuity under this subchapter to com-
14 mence may elect a method of payment other than the method
15 described in subsection (a)(2)(B) of this section only if the
16 participant or former participant and the spouse of the partic-
17 ipant or former participant jointly waive a survivor annuity
18 under the method described in such subsection (a)(2)(B).

19 “(B) A waiver shall not be effective for the purpose of
20 subparagraph (A) of this paragraph unless the waiver is
21 made in writing, is notarized, and is filed with the Office on
22 or before the date the annuity to which the waiver relates
23 commences.

24 “(C) A waiver made in accordance with this paragraph
25 shall be irrevocable.

1 “(3) *In the case of an annuitant who is subject to para-*
2 *graph (2)(A) of this subsection and fails to make an election*
3 *under paragraph (1) of this subsection, an annuity and sur-*
4 *vivor annuity shall be paid under the method of payment*
5 *described in subsection (a)(2)(B) of this section.*

6 “(4) *A participant or former participant may elect the*
7 *method prescribed under subsection (a)(2)(C) of this section*
8 *only if the participant or former participant is in good health*
9 *on the date the election is made, as determined by the Office.*

10 **“§ 8417. Level benefits option**

11 “(a) *Under regulations prescribed by the Office, an an-*
12 *nuity payable under this subchapter to a participant who is*
13 *separating from Government employment entitled to an im-*
14 *mediate annuity under subsection (a) of section 8411 of this*
15 *title and is less than 62 years of age may be adjusted as*
16 *provided in subsection (b) of this section, if elected by the*
17 *participant on or before the date of separation.*

18 “(b)(1) *Subject to paragraph (2) of this subsection, an*
19 *annuity payable under this subchapter to an annuitant who*
20 *has made an election authorized by subsection (a) of this sec-*
21 *tion may be increased during the period the annuitant is not*
22 *less than 55 years of age and is less than 62 years of age and*
23 *may be reduced on and after the date the annuitant is not less*
24 *than 62 years of age as appropriate to provide the annuitant*
25 *an annuity under this subchapter, during each month of such*

1 *period, in an amount which (as nearly as is practicable to*
2 *determine) equals the total amount of the monthly benefits*
3 *payable to the annuitant under this subchapter and section*
4 *202(a) of the Social Security Act after such date.*

5 “(2) *The actuarial present value of the benefits expected*
6 *to be paid under this subchapter to the annuitant as provided*
7 *in paragraph (1) of this subsection may not exceed the actu-*
8 *arial present value of the benefits that would be expected to be*
9 *paid under this subchapter to such participant if the adjust-*
10 *ments authorized by such paragraph were not made, as deter-*
11 *mined under regulations prescribed by the Office.*

12 **“§ 8418. Contributions**

13 “(a)(1) *Each agency of the Government employing a*
14 *participant shall contribute to the Fund an amount equal to*
15 *the sum of—*

16 “(A) *the normal cost, as determined by the Office,*
17 *of (i) each participant who is employed by the agency,*
18 *and (ii) each disabled participant who is entitled to*
19 *benefits under section 8442(a) of this title and was em-*
20 *ployed by the agency on the date the participant*
21 *became disabled (computed using average pay as in-*
22 *creased in accordance with section 8441(6) of this*
23 *title); and*

24 “(B) *the normal cost, as determined by the Office,*
25 *of the annuity supplement under section 8413(b) of*

1 *this title for each law enforcement officer, firefighter,*
2 *and air traffic controller who is employed by the*
3 *agency.*

4 *In computing normal cost, the Office shall not take into ac-*
5 *count normal cost attributable to credit for military service*
6 *provided in section 8419 of this title.*

7 *“(2) The contribution required by paragraph (1) of this*
8 *subsection to be made by an agency shall be made from the*
9 *appropriation or fund used to pay the agency’s participants,*
10 *or, in the case of an elected participant, from an appropria-*
11 *tion or fund available for payment of other salaries of the*
12 *office or establishment of the participant. In the case of a*
13 *participant in the legislative branch who is paid by the Clerk*
14 *of the House of Representatives, contributions for the benefit*
15 *of such participant shall be paid from the contingent fund of*
16 *the House of Representatives.*

17 *“(b)(1) As of the close of each fiscal year beginning*
18 *after September 30, 1987, the Office shall compute for such*
19 *fiscal year—*

20 *“(A) the amount of the supplemental liability of*
21 *the Fund relating to participants and annuitants other*
22 *than participants and annuitants referred to in sub-*
23 *paragraph (B) of this paragraph, and*

24 *“(B) the amount of the supplemental liability of*
25 *the Fund relating to participants and annuitants who*

1 *are active or retired officers or employees of the United*
2 *States Postal Service.*

3 “(2) *The amounts of any supplemental liability—*

4 “(A) *computed for any fiscal year pursuant to*
5 *paragraph (1)(A) of this subsection with respect to par-*
6 *ticipants and annuitants referred to in such paragraph*
7 *(1)(A) of this subsection, and*

8 “(B) *computed for any fiscal year pursuant to*
9 *paragraph (1)(B) of this subsection with respect to par-*
10 *ticipants and annuitants referred to in such paragraph*
11 *(1)(B),*

12 *shall each be amortized in thirty annual installments.*

13 “(3) *At the end of each fiscal year, the Office shall*
14 *notify—*

15 “(A) *the Secretary of the Treasury of the amount*
16 *of the annual installment computed under paragraph*
17 *(2)(A) of this subsection for such fiscal year, and*

18 “(B) *the Postmaster General of the United States*
19 *of the amount of the annual installment computed pur-*
20 *suant to paragraph (2)(B) of this subsection for such*
21 *fiscal year.*

22 “(4)(A) *Before closing the accounts for a fiscal year, the*
23 *Secretary of the Treasury shall credit the amount of the*
24 *annual installment computed for such fiscal year pursuant to*
25 *paragraph (2)(A) to the Fund, as a Government contribu-*

1 *tion, out of any money in the Treasury of the United States*
2 *not otherwise appropriated.*

3 “(B) Upon receiving a notice required by paragraph
4 (3)(B) of this subsection, the United States Postal Service
5 shall pay to the Fund the amount of the annual installment
6 specified in the notice.

7 “(5) For the purpose of carrying out paragraph (1) of
8 this subsection with respect to any fiscal year, the Office
9 may—

10 “(A) require the Board of Actuaries of the Civil
11 Service Retirement System to make actuarial determi-
12 nations and valuations, make recommendations, and
13 maintain records in the same manner as provided in
14 section 8347(f) of this title; and

15 “(B) may use the latest actuarial determinations
16 and valuations made by such Board of Actuaries.

17 “(c)(1) Except as provided in paragraph (6) of this sub-
18 section, under regulations prescribed by the Office, a partici-
19 pant may elect to contribute to the Fund under this subsec-
20 tion. An election under this paragraph may be made only
21 within 60 days after the date the participant first becomes a
22 participant and shall be irrevocable.

23 “(2) Each agency of the Government employing a par-
24 ticipant who elects under paragraph (1) of this subsection to
25 contribute to the Fund shall deduct and withhold from the

1 *basic pay payable to the participant for any pay period the*
2 *amount equal to the excess of—*

3 “(A) *the amount equal to 7 percent of such basic*
4 *pay, over*

5 “(B) *the amount of the tax deducted and withheld*
6 *from such pay for such period for the purposes of sec-*
7 *tion 3101(a) of the Internal Revenue Code of 1954*
8 *(relating to old-age, survivor, and disability insurance*
9 *under the Social Security Act).*

10 “(3) *Amounts deducted and withheld under paragraph*
11 *(2) of this subsection shall be deposited in the Treasury of the*
12 *United States to the credit of the Fund under such proce-*
13 *dures as the Comptroller General of the United States may*
14 *prescribe.*

15 “(4) *Each participant who elects to contribute to the*
16 *Fund under this subsection shall consent and agree to the*
17 *deductions required by paragraph (2) of this subsection. Not-*
18 *withstanding any other provision of law, payment less such*
19 *deductions is a full and complete discharge and acquittance*
20 *of all claims and demands for regular services performed*
21 *during the period covered by the payment.*

22 “(5) *Section 8334(d) of this title shall apply to refunds*
23 *of amounts deducted as required by paragraph (2) of this*
24 *subsection.*

1 “(6) A law enforcement officer, firefighter, air traffic
2 controller, and military reserve technician may not make an
3 election under paragraph (1) of this subsection.

4 “(d) Under regulations prescribed by the Office, the
5 head of an agency may request reconsideration of the amount
6 of the normal cost or the supplemental liability computed by
7 the Office for such agency under subsection (a) or (b) of this
8 section. Any such request shall be referred to the Board of
9 Actuaries of the Civil Service Retirement System. The
10 Board of Actuaries shall review the computations of the
11 Office and, if considered appropriate by the Board of Actuar-
12 ies, recompute such normal cost or such supplemental liabil-
13 ity of such agency under this subsection. The determination
14 of the Board of Actuaries shall be final.

15 **“§ 8419. Funding of annuity attributable to military service**

16 “(a) Except in the case of an individual making an
17 election under section 8471(a)(1)(A) of this title, a partici-
18 pant’s or former participant’s service shall include credit for
19 military service as provided in section 8332(c) of this title
20 without regard to whether the participant or former partici-
21 pant has made a deposit covering such military service as
22 provided in section 8334(j) of this title.

23 “(b) Before closing the accounts for a fiscal year, the
24 Secretary of the Treasury shall reimburse the Fund for the
25 normal cost relating to the creditable military service of em-

1 *ployees and Members who became participants during such*
2 *fiscal year, actuarially adjusted to the date of payment, as*
3 *determined by the Office. Reimbursements shall be made*
4 *under this subsection out of sums appropriated to the De-*
5 *partment of Defense for the purpose of making such*
6 *reimbursements.*

7 “(c) *At the end of each fiscal year the Office shall com-*
8 *pute the amount of the reimbursement required by subsection*
9 *(b) of this section for the fiscal year and shall notify the*
10 *Secretary of the Treasury of that amount.*

11 **“§ 8420. Lump-sum benefits; designation of beneficiary; order of prece-**
12 **dence**

13 “(a) *Subject to subsection (h) of this section, a partici-*
14 *pant who—*

15 “(1) *has elected to make contributions to the*
16 *Fund under section 8418(c) of this title;*

17 “(2)(A) *is separated from Government employ-*
18 *ment for at least 31 consecutive days; or*

19 “(B) *is transferred to a position in which he is*
20 *not subject to this subchapter and remains in such a*
21 *position for at least 31 consecutive days;*

22 “(3) *files an application with the Office for pay-*
23 *ment of the lump-sum credit;*

1 “(4) is not reemployed in a position which he is
2 subject to this subchapter at the time he files the appli-
3 cation; and

4 “(5) will not become eligible to receive an annuity
5 within 31 days after filing the application,
6 is entitled to be paid the portion of the lump-sum credit at-
7 tributable to the contributions referred to in paragraph (1) of
8 this subsection and interest on such portion, computed as pro-
9 vided in subsection (i) of this section.

10 “(b) Under regulations prescribed by the Office, a
11 present or former participant may designate a beneficiary or
12 beneficiaries for the purpose of this subchapter.

13 “(c) Lump-sum benefits authorized by subsections (d)
14 through (f) of this section shall be paid to the person or per-
15 sons who survive the participant to whom such subsections
16 apply and are alive at the date title to the payment arises.
17 Entitlement to such payment shall be in the same order of
18 precedence as is provided in section 8342(c) of this title. Pay-
19 ment under this subsection bars recovery by any other
20 person.

21 “(d) If a participant or a former participant not retired
22 dies—

23 “(1) without a survivor, or

1 “(2) with a survivor or survivors and the right of
2 all survivors terminates before a claim for survivor an-
3 nuity is filed,
4 the portion of the lump-sum credit referred to in subsection
5 (a) of this section and interest on such portion, computed as
6 provided in subsection (i) of this section, shall be paid as
7 provided in subsection (c) of this section.

8 “(e) If all annuity rights under this chapter based on
9 the service of a deceased participant terminate before the total
10 annuity paid equals the portion of the lump-sum credit re-
11 ferred to in subsection (a) of this section, the difference and
12 interest on such difference, computed as provided in subsec-
13 tion (i) of this section, shall be paid as provided in subsection
14 (c) of this section.

15 “(f) If an annuitant dies, annuity accrued and unpaid
16 shall be paid as provided in subsection (c) of this section.

17 “(g) Annuity accrued and unpaid on the termination,
18 except by death, of the annuity of an annuitant or survivor
19 annuitant shall be paid to that individual. Annuity accrued
20 and unpaid on the death of a survivor annuitant shall be
21 paid in the same order of precedence as is provided in section
22 8342(g) of this title, and the payment bars recovery by any
23 other person.

24 “(h)(1) Payment of a portion of the lump-sum credit
25 under subsection (a) of this section—

1 “(A) may be made only if any current spouse and
2 any former spouse of the participant are notified of the
3 participant’s application; and

4 “(B) in any case in which there is a former
5 spouse, shall be subject to the terms of a court order or
6 decree issued with respect to such former spouse if—

7 “(i) the order or decree expressly relates to
8 the portion of the lump-sum credit involved, and

9 “(ii) payment of such portion of the lump-
10 sum credit would extinguish entitlement of the
11 former spouse to a survivor annuity under section
12 8435 of this title or to any portion of an annuity
13 under section 8467 of this title.

14 “(2)(A) Notification of a spouse or former spouse under
15 this subsection shall be made in accordance with such re-
16 quirements as the Office shall by regulation prescribe.

17 “(B) Under the regulations, the Office may provide that
18 paragraph (1)(A) of this subsection may be waived with re-
19 spect to a spouse or former spouse of a participant if the
20 participant establishes to the satisfaction of the Office that
21 the whereabouts of such spouse or former spouse cannot be
22 determined.

23 “(3) The Office shall prescribe regulations under which
24 this subsection shall be applied in any case in which the

1 *Office receives two or more orders or decrees referred to in*
2 *paragraph (1)(B) of this subsection.*

3 “(i) *Interest on a portion of the lump-sum credit shall be*
4 *computed as if the interest had accrued at the end of each*
5 *year on the portion of the lump-sum credit in the Fund*
6 *during such year and shall be compounded annually. The*
7 *rate of interest for any year shall be the rate of interest com-*
8 *puted for such year under section 8334(e)(3) of this title.*

9 “(j) *Payment of the portion of the lump-sum credit re-*
10 *ferred to in subsection (a) of this section in the case of a*
11 *participant or former participant voids all rights under this*
12 *chapter which result from an election to make contributions*
13 *to the Fund under section 8418(c) of this title.*

14 “**SUBCHAPTER III—THRIFT SAVINGS PLAN**

15 “**§ 8421. Contributions**

16 “(a)(1) *On and after the date a participant makes an*
17 *election to make contributions to the Fund under section*
18 *8418(c) of this title or after the last date such an election*
19 *may be made under such section in the case of a participant*
20 *who does not make such election, the participant may contrib-*
21 *ute to the Thrift Savings Fund in any year an amount not*
22 *exceeding 10 percent of the participant’s annual rate of basic*
23 *pay.*

24 “(2) *Each participant receiving disability benefits*
25 *under subchapter V of this chapter may, until becoming 62*

1 *years of age (in the case of a person who is disabled within*
2 *the meaning of section 8441(4)(A) of this title) or until be-*
3 *coming 55 years of age (in the case of a person who is dis-*
4 *abled within the meaning of section 8441(4)(B) of this title),*
5 *contribute to the Thrift Savings Fund in any year an*
6 *amount not exceeding 10 percent of the amount of the former*
7 *participant's disability benefits payable under such subchap-*
8 *ter during such year.*

9 “(3)(A) *Except as provided in subparagraph (B) of this*
10 *paragraph, notwithstanding the limitations specified in para-*
11 *graphs (1) and (2) of this subsection, if, in any period for*
12 *which a participant is entitled to contribute to the Thrift*
13 *Savings Fund, the participant contributes less than the max-*
14 *imum amount authorized by paragraph (1) or (2) of this sub-*
15 *section (as applicable), the participant may contribute in a*
16 *later period for which the participant is entitled to contribute*
17 *to such fund the amount equal to the excess of such maxi-*
18 *mum amount authorized for the earlier period over the*
19 *amount contributed during the earlier period.*

20 “(B) *The total amount contributed under subparagraph*
21 *(A) of this paragraph and paragraph (1) or (2) of this subsec-*
22 *tion in any period may not exceed the amount equal to 15*
23 *percent of the periodic equivalent of the participant's annual*
24 *rate of basic pay for such period.*

1 “(4) Any contribution under this subsection shall be
2 made only pursuant to a program of regular contributions
3 under regulations prescribed by the Executive Director.

4 “(5) At least once each year, a participant may modify
5 the amount contributed pursuant to paragraph (1) or (2) of
6 this subsection, as the case may be, under regulations pre-
7 scribed by the Executive Director.

8 “(b)(1) The employing agency of a participant who con-
9 tributes to the Thrift Savings Fund under subsection (a) of
10 this section for any pay period, or, in the case of a disabled
11 participant who contributes to such fund under such subsec-
12 tion for any disability benefits payment period, the employ-
13 ing agency of the participant on the date the participant
14 became disabled (as defined in section 8441(4) of this title),
15 shall make a contribution to the Thrift Savings Fund for the
16 benefit of such participant or disabled participant. The em-
17 ploying agency's contribution shall be made at the end of
18 such period.

19 “(2)(A) Except as provided in subparagraph (B) of this
20 paragraph, the amount contributed under paragraph (1) of
21 this subsection by an employing agency with respect to a con-
22 tribution of a participant during any period shall be the
23 amount equal to such portion of the amount of the partici-
24 pant's contribution as (i) does not exceed 5 percent of the
25 amount of the gross pay or gross disability benefits, as the

1 case may be, which is payable for such period, and (ii) is not
2 contributed under subsection (a)(3) of this section.

3 “(B) In the case of a participant who has made an elec-
4 tion to make contributions under section 8418(c) of this title
5 and has not received a refund of such contributions under
6 section 8420 of this title, the amount contributed under para-
7 graph (1) of this subsection by an employing agency with
8 respect to a contribution of a participant under subsection (a)
9 of this section during any period shall be the amount equal to
10 the sum of—

11 “(1) such portion of the total amount of the par-
12 ticipant’s contribution as does not exceed 1 percent of
13 the amount of the gross pay or gross disability benefits,
14 as the case may be, payable for such period,

15 “(2) one-half of such portion of the amount of the
16 participant’s contribution as exceeds 1 percent but does
17 not exceed 3 percent of the gross pay or gross disability
18 benefits, as the case may be, payable for such period,
19 and

20 “(3) one-fourth of such portion of the amount of
21 the participant’s contribution as exceeds 3 percent but
22 does not exceed 6 percent of the gross pay or gross dis-
23 ability benefits, as the case may be, payable for such
24 period,

1 *without regard to any amount contributed by the participant*
2 *under subsection (a)(3) of this section.*

3 “(c) *The sums required to be contributed to the Thrift*
4 *Savings Fund by an employing agency under subsection (b)*
5 *of this section for the benefit of a participant shall be paid*
6 *from the appropriations or funds available to such agency to*
7 *pay the basic pay of participants or, in the case of an elected*
8 *participant, from an appropriation or fund available for pay-*
9 *ment of other salaries of the participant’s office or establish-*
10 *ment. In the case of a participant in the legislative branch*
11 *who is paid by the Clerk of the House of Representatives,*
12 *contributions for the benefit of such participant shall be paid*
13 *from the contingent fund of the House of Representatives.*

14 “(d)(1) *For purposes of the Internal Revenue Code of*
15 *1954—*

16 “(A) *the amount of any—*

17 “(i) *participant contribution, or*

18 “(ii) *employing agency’s matching contribu-*
19 *tion,*

20 *to the Thrift Savings Fund shall not be included in*
21 *the gross income of the participant in the taxable year*
22 *in which such contributions are made, and*

23 “(B) *the determination of when, and in what*
24 *manner, such contributions and any income allocable*
25 *to such contributions are included in the gross income*

1 of such participant shall be made in the same manner
2 as if the Thrift Savings Fund were a trust which met
3 the requirements of section 401(a) of such Code.

4 “(2) Paragraph (1) shall not apply to any participant
5 contribution described in paragraph (1)(A)(i) in any taxable
6 year with respect to which section 402(a)(8) of such Code
7 does not apply to contributions made to any qualified cash or
8 deferred arrangement (within the meaning of section 401(k)
9 of such Code).

10 “(e) Subsection (d)(1) of this section shall not be con-
11 strued to provide that any amount of the participant’s pay
12 which is contributed to the Thrift Savings Fund shall not be
13 included in the term ‘wages’ for purposes of section 209 of the
14 Social Security Act or section 3121(a) of the Internal Reve-
15 nue Code of 1954.

16 **“§ 8422. Vesting**

17 “(a)(1) A participant who separates from Government
18 employment shall be entitled to an amount equal to—

19 “(A) the total amount of the contributions made
20 under section 8421(a) of this title plus the total
21 amount of the net earnings in the Thrift Savings
22 Fund, or minus the total amount of the net losses, at-
23 tributable to such contributions; and

24 “(B) the applicable percentage of the amount
25 equal to the total amount contributed to the Thrift Sav-

1 *ings Fund for the benefit of the participant under sec-*
 2 *tion 8421(b) of this title plus the total amount of the*
 3 *net earnings in the Thrift Savings Fund, or minus the*
 4 *total amount of the net losses, attributable to such con-*
 5 *tributions, as provided in subsection (b) of this section.*

6 *“(2) The amount to which a participant is entitled*
 7 *under paragraph (1) of this subsection shall be payable in*
 8 *accordance with the election made by the participant pursu-*
 9 *ant to section 8423 of this title.*

10 *“(b)(1) For the purpose of subsection (a)(1)(B) of this*
 11 *section, except as provided in paragraph (2) of this subsec-*
 12 *tion, the applicable percentage for a participant separating*
 13 *from Government employment after having been a partici-*
 14 *pant in the System for a period set forth under column I of*
 15 *the table below is the percentage set forth under column II of*
 16 *the table below opposite the description of such period:*

<i>“Column I</i>	<i>Column II</i>
<i>Period for which the participant has been a participant in the System:</i>	<i>Applicable percentage:</i>
<i>Less than 1 year</i>	<i>0</i>
<i>Not less than 1 year, but less than 2 years</i>	<i>20</i>
<i>Not less than 2 years, but less than 3 years.....</i>	<i>40</i>
<i>Not less than 3 years, but less than 4 years.....</i>	<i>60</i>
<i>Not less than 4 years, but less than 5 years.....</i>	<i>80</i>
<i>Not less than 5 years</i>	<i>100.</i>

17 *“(2) For the purposes of subsection (a)(1)(B) of this*
 18 *section—*

1 “(A) the percentage applicable in the case of any
2 participant who dies while employed by the Govern-
3 ment shall be 100 percent; and

4 “(B) in the case of a participant making contri-
5 butions under section 8421(a)(2) of this title, the
6 period for which the person has been a participant in
7 the System shall include periods for which such contri-
8 butions were made.

9 “(c) When an election is made by a participant under
10 section 8423(c) of this title, the amount equal to the excess
11 of—

12 “(1) the sum of—

13 “(A) the amounts contributed to the Thrift
14 Savings Fund with respect to the participant
15 under section 8421 of this title; and

16 “(B) the net earnings in the Thrift Savings
17 Fund attributable to such contributions, over

18 “(2) the amount in the Thrift Savings Fund paid
19 or reserved for payment to or with respect to the partic-
20 ipant pursuant to section 8423(c) of this title,
21 shall be available for the year in which the election is made to
22 pay the administrative expenses incurred during such year
23 under the Federal Retirement Thrift Investment Manage-
24 ment System prescribed in subchapter VIII of this chapter.
25 Any portion of the amount which is available for such pur-

1 *pose under this subsection in any year and is not obligated or*
2 *expended before the end of such year shall be transferred to*
3 *the Treasury of the United States for credit to Miscellaneous*
4 *Receipts.*

5 ***“§ 8423. Entitlement and elections relating to entitlement***

6 *“(a)(1) Any participant who separates from Govern-*
7 *ment employment entitled to an immediate annuity under*
8 *section 8411 of this title, any participant who separates from*
9 *Government employment entitled to benefits under subchap-*
10 *ter I of chapter 81 of this title, and, subject to paragraph (2)*
11 *of this subsection, any participant who is entitled to receive*
12 *disability benefits under subchapter V of this chapter is enti-*
13 *tled and may elect—*

14 *“(A) to receive an immediate annuity from the*
15 *Thrift Savings Fund;*

16 *“(B) to defer the commencement of the payment of*
17 *an annuity from the Thrift Savings Fund until such*
18 *date as the participant specifies;*

19 *“(C) to withdraw, in one or more payments, the*
20 *amount of the balance credited to the participant’s ac-*
21 *count in the Thrift Savings Fund; or*

22 *“(D) to transfer the amount of the balance in the*
23 *account to an individual retirement account or other*
24 *qualified plan (within the meaning of the Internal*
25 *Revenue Code of 1954) of the participant.*

1 “(2) *An election may be made by a disabled participant*
2 *under paragraph (1) of this subsection only within one year*
3 *after the date the participant is determined to be disabled for*
4 *the purposes of subchapter V of this chapter. The election is*
5 *irrevocable.*

6 “(b) *Any participant who separates from Government*
7 *employment entitled to a deferred annuity under section*
8 *8412 of this title is entitled and may elect—*

9 “(1) *to receive an annuity from the Thrift Sav-*
10 *ings Fund to commence on the first date the partici-*
11 *part is entitled to receive the deferred annuity;*

12 “(2) *to defer the commencement of the payment of*
13 *an annuity from the Thrift Savings Fund until a date*
14 *after the first date the participant is entitled to receive*
15 *the deferred annuity, as specified by the participant;*

16 “(3) *to withdraw in one or more payments, on or*
17 *after the first date the participant is entitled to receive*
18 *the deferred annuity, the amount of the balance cred-*
19 *ited to the participant's account in the Thrift Savings*
20 *Fund; or*

21 “(4) *to transfer the amount of the balance in the*
22 *account to an individual retirement account or other*
23 *qualified plan (within the meaning of the Internal*
24 *Revenue Code of 1954) of the participant.*

1 “(c) *Any participant who separates from Government*
2 *employment before becoming entitled to an annuity under*
3 *section 8411 or 8412 of this title is entitled and may elect—*

4 “(1) *to withdraw, in one or more payments, the*
5 *amount computed under section 8422(a)(1) of this title,*
6 *payable when the participant becomes 62 years of age;*
7 *or*

8 “(2) *to transfer such amount to an individual re-*
9 *tirement account or other qualified plan (within the*
10 *meaning of the Internal Revenue Code of 1954) of the*
11 *participant.*

12 “(d)(1) *Subject to paragraph (2) of this subsection, any*
13 *participant making an election pursuant to subsection*
14 *(a)(1)(B) or (b)(2) of this section may modify the date speci-*
15 *fied in the election or in a previous modification under this*
16 *subsection.*

17 “(2) *Any modification of an election under paragraph*
18 *(1) of this subsection may not be made on or after the date*
19 *specified in the election or the latest modification made under*
20 *such paragraph and may not specify a date for the com-*
21 *mencement of annuity payments earlier than 1 month after*
22 *the date the modification is filed with the Executive Director.*

23 **“§ 8424. Annuities: methods of payment; election; and computation**

24 “(a)(1) *The Board shall prescribe methods of payment*
25 *of annuities under this subchapter.*

1 “(2) *The methods of payment prescribed under para-*
2 *graph (1) of this subsection shall include, but not be limited*
3 *to—*

4 “(A) *a method which provides for the payment of*
5 *a monthly annuity only to an annuitant during the life*
6 *of the annuitant;*

7 “(B) *a method which provides for the payment of*
8 *a monthly annuity to an annuitant for the joint lives*
9 *of the annuitant and the spouse of the annuitant and*
10 *an appropriate monthly annuity to the one of them who*
11 *survives the other of them for the life of the survivor;*

12 “(C) *a method described in subparagraph (A) of*
13 *this paragraph which provides annual increases in the*
14 *amount of the annuity payable;*

15 “(D) *a method described in subparagraph (B) of*
16 *this paragraph which provides annual increases in the*
17 *amount of the annuity payable; and*

18 “(E) *a method providing for the payment of a*
19 *monthly annuity—*

20 “(i) *to the annuitant for the joint lives of the*
21 *annuitant and an individual, designated by the*
22 *annuitant under regulations prescribed by the*
23 *Executive Director, who has an insurable interest*
24 *in the annuitant; and*

1 “(ii) to the one of them who survives the
2 other of them for the life of the survivor.

3 “(b) Subject to subsection (c) of this section, under such
4 regulations as the Executive Director shall prescribe, an an-
5 nuitant electing under section 8423 of this title to receive an
6 annuity from the Thrift Savings Fund shall elect, on or
7 before the date on which the annuitant's annuity under this
8 subchapter commences, one of the methods of payment pre-
9 scribed by the Board under subsection (a) of this section.

10 “(c) The amount of an annuity payable under this sub-
11 chapter pursuant to the method elected under subsection (b) of
12 this section shall be determined on an actuarial basis under
13 regulations prescribed by the Executive Director.

14 **“§ 8425. Administrative provisions relating to payments and elections**

15 “(a) The Executive Director shall make or provide for
16 payments and transfers in accordance with an election of a
17 participant under section 8423 or 8424(b) of this title.

18 “(b) Any election under section 8423 or 8424(b) of this
19 title shall be in writing and shall be filed with the Executive
20 Director in accordance with regulations prescribed by the
21 Executive Director.

22 “(c) Notwithstanding any other provision of this section,
23 an election or modification of an election under any provision
24 of this subchapter shall not be effective if the election or modi-
25 fication would result in a violation of the terms of an applica-

1 *ble court decree of divorce, annulment, or legal separation, or*
2 *the terms of any court order or court-approved property settle-*
3 *ment agreement incident to a court decree of divorce, annul-*
4 *ment, or legal separation, as determined by the Executive*
5 *Director.*

6 ***“§ 8426. Thrift Savings Fund***

7 *“(a) There is established in the Treasury of the United*
8 *States a Thrift Savings Fund.*

9 *“(b) The Thrift Savings Fund consists of the sum of all*
10 *amounts contributed under section 8421 of this title and all*
11 *amounts deposited under section 8499(b) of this title, in-*
12 *creased by the total net earnings from investments of sums in*
13 *the Thrift Savings Fund or reduced by the total net losses*
14 *from investments of the Thrift Savings Fund, and reduced*
15 *by the total amount of payments made from the Thrift Sav-*
16 *ings Fund.*

17 *“(c) The sums in the Thrift Savings Fund are ap-*
18 *propriated and shall remain available without fiscal year*
19 *limitation—*

20 *“(1) to invest under section 8427 of this title;*

21 *“(2) to pay benefits under this subchapter;*

22 *“(3) to pay the administrative expenses of the*
23 *Federal Retirement Thrift Investment Management*
24 *System prescribed in subchapter VIII of this chapter;*

1 “(4) to make loans to participants as authorized
2 under subsection (e) of this section; and

3 “(5) to purchase insurance as provided in section
4 8499(b)(2) of this title.

5 “(d)(1) Except as provided in paragraph (2) of this sub-
6 section or section 8465(b) or 8467 of this title, and except as
7 otherwise provided in a Federal law, sums in the Thrift Sav-
8 ings Fund may not be assigned or alienated and are not sub-
9 ject to execution, levy, attachment, garnishment, or other
10 legal process. For purposes of this paragraph, a loan made
11 from such fund to a participant shall not be considered to be
12 an assignment or alienation.

13 “(2) Moneys due or payable from the Thrift Savings
14 Fund to any individual and, in the case of an individual who
15 is a participant, moneys which the individual would be enti-
16 tled to receive under section 8422 of this title upon separation
17 from Government employment shall be subject to legal proc-
18 ess for the enforcement of the individual's legal obligations to
19 provide child support or make alimony payments as provided
20 in section 459 of the Social Security Act (42 U.S.C. 659) or
21 to pay any indebtedness of the individual to the United
22 States.

23 “(e)(1) The Board shall establish a program to make
24 loans from the Thrift Savings Fund to a participant in case
25 of financial hardship. The program shall be subject to the

1 *same conditions as are prescribed in section 408(b)(1) of the*
2 *Employee Retirement Income Security Act of 1974 (29*
3 *U.S.C. 1108(b)(1)).*

4 “(2) *The Executive Director shall prescribe regulations*
5 *to carry out such program.*

6 “(3) *Any loan made to a participant under such pro-*
7 *gram shall be made only out of sums contributed to the Thrift*
8 *Savings Fund by the participant and net earnings attributa-*
9 *ble to such sums.*

10 “(f) *The sums in the Thrift Savings Fund shall not be*
11 *appropriated and may not be used for any purpose other than*
12 *the purposes specified in this section.*

13 **“§ 8427. Investment of Thrift Savings Fund**

14 “(a) *For the purposes of this section—*

15 “(1) *the term ‘Common Stock Index Investment*
16 *Fund’ means the Common Stock Investment Fund es-*
17 *tablished under subsection (b)(1)(C) of this section;*

18 “(2) *the term ‘equity capital’ means common and*
19 *preferred stock, surplus, undivided profits, contingency*
20 *reserves, and other capital reserves;*

21 “(3) *the term ‘Fixed Income Investment Fund’*
22 *means the Fixed Income Investment Fund established*
23 *under subsection (b)(1)(B) of this section;*

24 “(4) *the term ‘Government Securities Investment*
25 *Fund’ means the Government Securities Investment*

1 *Fund established under subsection (b)(1)(A) of this*
2 *section;*

3 “(5) the term ‘net worth’ means capital, paid-in
4 *and contributed surplus, unassigned surplus, contin-*
5 *gency reserves, group contingency reserves, and special*
6 *reserves;*

7 “(6) the term ‘plan’ means an employee benefit
8 *plan, as defined in section 3(3) of the Employee Re-*
9 *tirement Income Security Act of 1974 (29 U.S.C.*
10 *1002(3));*

11 “(7) the term ‘qualified professional asset manag-
12 *er’ means—*

13 “(A) a bank, as defined in section 202(a)(2)
14 *of the Investment Advisers Act of 1940 (15*
15 *U.S.C. 80b-2(a)(2)) which—*

16 “(i) has the power to manage, acquire,
17 *or dispose of assets of a plan; and*

18 “(ii) has, as of the last day of its latest
19 *fiscal year ending before the date of a deter-*
20 *mination for the purpose of this clause,*
21 *equity capital in excess of \$1,000,000;*

22 “(B) a savings and loan association, the ac-
23 *counts of which are insured by the Federal Sav-*
24 *ings and Loan Insurance Corporation, which—*

1 “(i) has applied for and been granted
2 trust powers to manage, acquire, or dispose
3 of assets of a plan by a State or Government
4 authority having supervision over savings
5 and loan associations; and

6 “(ii) has, as of the last day of its latest
7 fiscal year ending before the date of a deter-
8 mination for the purpose of this clause,
9 equity capital or net worth in excess of
10 \$1,000,000;

11 “(C) an insurance company which—

12 “(i) is qualified under the laws of more
13 than one State to manage, acquire, or dis-
14 pose of any assets of a plan;

15 “(ii) has, as of the last day of its latest
16 fiscal year ending before the date of a deter-
17 mination for the purpose of this clause, net
18 worth in excess of \$1,000,000; and

19 “(iii) is subject to supervision and ex-
20 amination by a State authority having su-
21 pervision over insurance companies; or

22 “(D) an investment adviser registered under
23 section 203 of the Investment Advisers Act of
24 1940 (15 U.S.C. 80b-3) if the investment advis-
25 er has, on the the last day of its latest fiscal year

1 *ending before the date of a determination for the*
2 *purpose of this subparagraph, total client assets*
3 *under its management and control in excess of*
4 *\$50,000,000, and—*

5 *“(i) the investment adviser has, on such*
6 *day, shareholder’s or partner’s equity in*
7 *excess of \$750,000; or*

8 *“(ii) payment of all of the investment*
9 *adviser’s liabilities, including any liabilities*
10 *which may arise by reason of a breach or*
11 *violation of a duty described in section 8497*
12 *of this title, is unconditionally guaranteed*
13 *by—*

14 *“(I) a person who directly or indi-*
15 *rectly, through one or more intermediar-*
16 *ies, controls, is controlled by, or is*
17 *under common control with the invest-*
18 *ment adviser and who has, on the last*
19 *day of the person’s latest fiscal year*
20 *ending before the date of a determina-*
21 *tion for the purpose of this clause,*
22 *shareholder’s or partner’s equity in an*
23 *amount which, when added to the*
24 *amount of the shareholder’s or partner’s*

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1 equity of the investment adviser on such
2 day, exceeds \$750,000;

3 “(II) a qualified professional asset
4 manager described in subparagraph (A),
5 (B), or (C) of this paragraph; or

6 “(III) a broker or dealer registered
7 under section 15 of the Securities Ex-
8 change Act of 1934 (15 U.S.C. 78o)
9 that has, on the last day of the broker’s
10 or dealer’s latest fiscal year ending
11 before the date of a determination for
12 the purpose of this clause, net worth in
13 excess of \$750,000; and

14 “(8) the term ‘shareholder’s or partner’s equity’,
15 when used in paragraph (7)(D) of this subsection with
16 respect to an investment adviser or a person who is af-
17 filiated with the investment adviser in a manner de-
18 scribed in clause (ii)(I) of such paragraph (7)(D),
19 means the equity shown in the most recent balance
20 sheet prepared for such investment adviser or affiliated
21 person, in accordance with generally accepted account-
22 ing principles, within 2 years before the date on which
23 the investment adviser’s status as a qualified profes-
24 sional asset manager is determined for the purposes of
25 this section.

1 “(b)(1) *The Board shall establish—*

2 “(A) *a Government Securities Investment Fund*
3 *under which sums in the Thrift Savings Fund are in-*
4 *vested in securities of the United States Government*
5 *issued as provided in subsection (f) of this section;*

6 “(B) *a Fixed Income Investment Fund under*
7 *which sums in the Thrift Savings Fund are invested*
8 *in insurance contracts, certificates of deposits, or other*
9 *instruments or obligations which (i) are selected by*
10 *qualified professional asset managers, and (ii) return*
11 *the amount invested and pay interest, at a specified*
12 *rate or rates, on that amount during a specified period*
13 *of time;*

14 “(C) *a Common Stock Index Investment Fund*
15 *as provided in paragraph (2) of this subsection; and*

16 “(D) *such other investment funds as the Board*
17 *determines to be appropriate for the purposes of this*
18 *subchapter.*

19 “(2)(A) *The Board shall define an index which—*

20 “(i) *consists of (I) all of the common stocks that*
21 *are publicly listed and traded on one or more national*
22 *securities exchanges, and (II) over-the-counter securi-*
23 *ties quoted publicly on the National Association of Se-*
24 *curities Dealers Automated Quotations system or on*
25 *another automated basis, or*

1 “(i) is a commonly recognized index comprised of
2 common stock the aggregate market value of which is
3 as complete a representation of the United States
4 equity markets as is reasonably practicable.

5 “(B) Except as provided in subparagraph (C) of this
6 paragraph, the Common Stock Index Investment Fund shall
7 be invested in a portfolio designed to replicate the perform-
8 ance of the index defined under subparagraph (A) of this
9 paragraph. The portfolio shall be designed such that—

10 “(i) to the extent practicable, the percentage of the
11 Common Stock Index Investment Fund that is invest-
12 ed in each stock is the same as the percentage deter-
13 mined by dividing the aggregate market value of all
14 shares of that stock by the aggregate market value of
15 all shares of all stock included in such index, or

16 “(ii) a sampling of stocks included in the index is
17 used in the construction of an index fund that mini-
18 mizes differences between the net portfolio return and
19 the total index return.

20 “(C) The Executive Director may exclude certain
21 stocks from the Common Stock Index Investment Fund and
22 from the index defined in accordance with subparagraph (A)
23 of this paragraph upon the recommendation of the Employee
24 Advisory Committee, notwithstanding the standards for in-
25 vestment decisionmaking set out in section 8495 of this title.

1 “(c)(1) *The Executive Director shall invest in the Gov-*
2 *ernment Securities Investment Fund the sums which are in*
3 *the Thrift Savings Fund, are available for investment, and*
4 *are not to be invested in an investment fund referred to in*
5 *subsection (b)(1)(B), (b)(1)(C), or (b)(1)(D) of this section*
6 *pursuant to an election made under subsection (d) of this*
7 *section.*

8 “(2) *Except as provided in subsection (e) of this section,*
9 *the Executive Director shall invest sums available in the*
10 *Thrift Savings Fund for investment as provided in elections*
11 *made under subsection (d) of this section.*

12 “(d)(1) *Except as provided in subsection (e) of this sec-*
13 *tion, at least once each year, a participant or former partici-*
14 *pant may elect the investment funds referred to in subsection*
15 *(b) of this section into which the sums in the Thrift Savings*
16 *Fund credited to the account of such participant or former*
17 *participant are to be invested or reinvested.*

18 “(2) *The election may be made by a participant or*
19 *former participant under paragraph (1) of this subsection*
20 *only in accordance with regulations prescribed by the Execu-*
21 *tive Director and within such period after the date the par-*
22 *ticipant's or former participant's annual statement is trans-*
23 *mitted to the participant or former participant pursuant to*
24 *section 8428(b) of this title as the Executive Director shall*
25 *prescribe in such regulations.*

1 “(3) *Each participant who elects to invest in the*
2 *Common Stock Index Investment Fund or the Fixed Income*
3 *Investment Fund shall sign an acknowledgement prescribed*
4 *by the Executive Director which states that the participant*
5 *understands that an investment in such fund is made at the*
6 *participant’s risk, that the participant is not protected by the*
7 *Federal Government against loss on such investment, and*
8 *that a return on such investment is not guaranteed by the*
9 *Federal Government.*

10 “(e)(1)(A) *The Executive Director shall invest a per-*
11 *centage of the total amount that—*

12 “(i) *is contributed to the Thrift Savings Fund by*
13 *a participant under section 8421(a) of this title during*
14 *a year described under column I of the first table of*
15 *minimum Government securities investments set out in*
16 *subparagraph (B) of this paragraph, and*

17 “(ii) *is available for investment,*
18 *in the Government Securities Investment Fund as provided*
19 *under column II of the table opposite the description of such*
20 *year.*

21 “(B) *For the purposes of subparagraph (A) of this para-*
22 *graph, the first table of minimum Government securities in-*
23 *vestments is as follows:*

<i>"Column I</i>	<i>Column II</i>
<i>Year:.....</i>	<i>Minimum percentage of the amounts contributed by a participant for each month of such year to be invested in the Government Securities Investment Fund:</i>
<i>1987.....</i>	<i>100</i>
<i>1988.....</i>	<i>80</i>
<i>1989.....</i>	<i>60</i>
<i>1990.....</i>	<i>40</i>
<i>1991.....</i>	<i>20.</i>

1 “(2)(A) *The Executive Director shall invest a percent-*
2 *age of the total amount that—*

3 “(i) *is contributed to the Thrift Savings Fund by*
4 *the Government for the benefit of a participant pursu-*
5 *ant to section 8421(b) of this title during a year de-*
6 *scribed under column I of the second table of minimum*
7 *Government securities investments set out in subpara-*
8 *graph (B) of this paragraph, and*

9 “(ii) *is available for investment,*
10 *in the Government Securities Investment Fund as provided*
11 *under column II of the table opposite the description of such*
12 *year.*

13 “(B) *For the purposes of subparagraph (A) of this para-*
14 *graph, the second table of minimum Government securities*
15 *investments is as follows:*

<i>"Column I</i>	<i>Column II</i>
<i>Year:.....</i>	<i>Minimum percentage of the amounts contributed for the benefit of a participant for each month of such year to be invested in the Government Securities Investment Fund:</i>
<i>1987-1992.....</i>	<i>100</i>

<i>"Column I</i>	<i>Column II</i>
<i>1993.....</i>	<i>80</i>
<i>1994.....</i>	<i>60</i>
<i>1995.....</i>	<i>40</i>
<i>1996.....</i>	<i>20.</i>

1 “(3) All sums credited to the Thrift Savings Fund pur-
2 suant to section 8473(b) of this title shall be invested in the
3 Government Securities Investment Fund.

4 “(4) The sums which are invested in the Government
5 Securities Investment Fund as required by this subsection
6 and are returned to the Thrift Savings Fund after maturity
7 of the securities purchased with such sums, and the amounts
8 earned on the investment of such sums, shall be reinvested in
9 the Government Securities Investment Fund.

10 “(f) The Secretary of the Treasury is authorized to
11 issue special interest-bearing obligations of the United States
12 for purchase by the Thrift Savings Fund. Obligations issued
13 for the purpose of this subsection shall have maturities fixed
14 with due regard to the needs of such fund as determined by
15 the Executive Director, and shall bear interest at a rate equal
16 to the average market yield (computed by the Secretary of the
17 Treasury on the basis of market quotations as of the end of
18 the calendar month next preceding the date of issue of such
19 obligations) on all marketable interest-bearing obligations of
20 the United States then forming a part of the public debt
21 which are not due or callable until after the expiration of 4

1 *years from the end of such calendar month. Any such average*
2 *market yield which is not a multiple of one-eighth of 1 per-*
3 *cent, shall be rounded to the nearest multiple of one-eighth of*
4 *1 percent.*

5 ***“§ 8428. Accounting***

6 *“(a)(1) The Executive Director shall establish and*
7 *maintain an account for each participant making contribu-*
8 *tions under section 8421(a) of this title.*

9 *“(2) The balance in the account of a participant or*
10 *former participant at any time is the excess of—*

11 *“(A) the sum of—*

12 *“(i) all contributions made to the Thrift Sav-*
13 *ings Fund by the participant or former partici-*
14 *pant under section 8421(a) of this title;*

15 *“(ii) all contributions made to such fund for*
16 *the benefit of the participant or former participant*
17 *under section 8421(b) of this title;*

18 *“(iii) the amounts transferred to such fund*
19 *with respect to the participant or former partici-*
20 *pant under section 8473(b) of this title; and*

21 *“(iv) the total amount of the allocations*
22 *made to and reductions made in the account pur-*
23 *suant to paragraph (3) of this section, over*

24 *“(B) the amounts paid out of the Thrift Savings*
25 *Fund with respect to such participant or former partici-*

1 *ipant under this subchapter and subchapter IV of this*
2 *title.*

3 *“(3) Pursuant to regulations prescribed by the Execu-*
4 *tive Director, the Executive Director shall allocate to the ac-*
5 *count of each participant or former participant an amount*
6 *equal to a pro rata share of the net earnings and net losses*
7 *from each investment of sums in the Thrift Savings Fund*
8 *attributable to sums credited to the account of such partici-*
9 *pant, reduced by an appropriate share of the administrative*
10 *expenses of the Federal Retirement Thrift Investment Man-*
11 *agement System prescribed in subchapter VIII of this chap-*
12 *ter, as determined by the Executive Director.*

13 *“(b) The Executive Director shall provide each partici-*
14 *pant and former participant an annual statement of the bal-*
15 *ance in the participant’s or former participant’s account.*

16 *“(c)(1) For the purposes of this subsection, the term*
17 *‘qualified public accountant’ shall have the same meaning as*
18 *provided in section 103(a)(3)(D) of the Employee Retirement*
19 *Income Security Act of 1974 (29 U.S.C. 1024(a)(3)(D)).*

20 *“(2) The Executive Director shall annually engage, on*
21 *behalf of all participants, an independent qualified public ac-*
22 *countant, who shall conduct an examination of any accounts*
23 *established under subsection (a) of this section and of other*
24 *books and records maintained in the administration of this*
25 *subchapter as the accountant considers necessary to enable*

1 *the accountant to make the determination required by para-*
2 *graph (3) of this subsection. The examination shall be con-*
3 *ducted in accordance with generally accepted auditing stand-*
4 *ards and shall involve such tests of the accounts, books, and*
5 *records as the independent qualified public accountant con-*
6 *siders necessary.*

7 “(3) *The independent qualified public accountant con-*
8 *ducting an examination under paragraph (2) of this subsec-*
9 *tion shall determine whether the accounts, books, and records*
10 *referred to in such paragraph have been maintained in con-*
11 *formity with generally accepted accounting principles applied*
12 *on a basis consistent with the application of such principles*
13 *during the examination conducted under such paragraph*
14 *during the preceding year. The accountant shall transmit to*
15 *the Board and the Comptroller General of the United States*
16 *a report on his examination, including his determination*
17 *under this paragraph.*

18 “(4) *In making a determination under paragraph (3) of*
19 *this subsection, the accountant may rely on the correctness of*
20 *any actuarial matter certified by an enrolled actuary, if the*
21 *accountant states his reliance in the report transmitted to the*
22 *Board under such paragraph.*

1 “SUBCHAPTER IV—SURVIVOR BENEFITS

2 “§ 8431. *Basic plan spousal benefits relating to the death of a partici-*
3 *pant or former participant other than an annuitant*

4 “(a)(1) *If a participant dies after performing 18 or*
5 *more months of service and before separating from Govern-*
6 *ment employment, the surviving spouse of a deceased partici-*
7 *pant shall be entitled to a survivor annuity payable out of the*
8 *Fund.*

9 “(2)(A) *The amount of the survivor annuity which is*
10 *payable under paragraph (1) of this subsection to the surviv-*
11 *ing spouse of a deceased participant other than a participant*
12 *referred to in paragraph (3) of this subsection shall be equal*
13 *to 50 percent of the reduced annuity which the participant*
14 *would have been entitled to receive if the participant had re-*
15 *tired from Government employment on the day before the*
16 *date of death, computed as provided in subparagraph (B) of*
17 *this paragraph.*

18 “(B) *For the purposes of subparagraph (A) of this para-*
19 *graph, the reduced annuity of a deceased participant shall be*
20 *the greater of—*

21 “(i) *the annuity computed with respect to the de-*
22 *ceased participant under sections 8413 and 8414*
23 *(without regard to section 8415) of this title, or*

24 “(ii) *65 percent of the annuity computed with re-*
25 *spect to the deceased participant under section 8413*

1 *(without regard to sections 8414 and 8415) of this*
2 *title.*

3 *“(3) The amount of the survivor annuity which is pay-*
4 *able under paragraph (1) of this subsection to the surviving*
5 *spouse of a deceased participant who elected to make contri-*
6 *butions under section 8418(c) of this title and has not re-*
7 *ceived a refund of such contributions under section 8420 of*
8 *this title shall be equal to 50 percent of the annuity which the*
9 *participant would have been entitled to receive if the partici-*
10 *pant had retired from Government employment on the day*
11 *before the date of death, computed as provided in section*
12 *8413 of this title without regard to sections 8414 and 8415 of*
13 *this title and any election under section 8417(a) of this title.*

14 *“(b)(1) If a former participant dies entitled to a deferred*
15 *annuity under section 8412 of this title before payment of an*
16 *annuity under subchapter II of this chapter to the former*
17 *participant commences, the surviving spouse of the deceased*
18 *former participant is entitled to a survivor annuity payable*
19 *out of the Fund.*

20 *“(2)(A) The amount of the survivor annuity payable*
21 *under paragraph (1) of this subsection to the surviving*
22 *spouse of a deceased former participant shall be equal to 50*
23 *percent of the annuity which the deceased former participant*
24 *would have been entitled to receive under such section if the*
25 *deceased former participant—*

1 “(i) had been 55 years of age on the day before
2 the date of death, or

3 “(ii) in the case of a former participant who was
4 55 years of age or older on such day and was not re-
5 ceiving such annuity, had commenced to receive such
6 deferred annuity on such day,
7 computed as provided in subparagraph (B) or (C) of this
8 paragraph, as applicable.

9 “(B) For the purposes of subparagraph (A) of this para-
10 graph, the annuity which a deceased former participant other
11 than a participant described in subparagraph (C) of this
12 paragraph would have been entitled to receive shall be equal
13 the greater of—

14 “(i) the annuity computed with respect to the de-
15 ceased former participant under sections 8413 and
16 8414 (without regard to section 8415) of this title, or

17 “(ii) 65 percent of the annuity computed with re-
18 spect to the deceased former participant under section
19 8413 (without regard to sections 8414 and 8415) of
20 this title.

21 “(C) For the purposes of subparagraph (A) of this para-
22 graph, the annuity which a deceased former participant
23 would have been entitled to receive in the case of a deceased
24 former participant who elected to make contributions under
25 section 8418(c) of this title and has not received a refund of

1 *such contributions under section 8420 of this title shall be*
2 *computed under section 8413 of this title without regard to*
3 *sections 8414 and 8415 of this title and any election under*
4 *section 8417(a) of this title.*

5 “(c) *For the purpose of computing a survivor annuity*
6 *under subsection (a) or (b) of this section, a deceased partici-*
7 *pant or former participant who died before completing 10*
8 *years of service shall be deemed to have completed 10 years of*
9 *service.*

10 **“§ 8432. Basic plan spousal and insurable interest benefits relating to**
11 ***the death of an annuitant***

12 “A survivor annuity shall be paid out of the Fund with
13 respect to a deceased annuitant—

14 “(1) *in accordance with the method of payment*
15 *elected by the annuitant under section 8416 of this*
16 *title;*

17 “(2) *as provided in subsection (b)(3) of such sec-*
18 *tion; or*

19 “(3) *in accordance with an election made by the*
20 *annuitant under section 8434(a) or 8436(c) of this*
21 *title.*

22 **“§ 8433. Survivor benefits under the thrift savings plan**

23 “(a) *A survivor annuity shall be paid out of the Thrift*
24 *Savings Fund with respect to a deceased annuitant as pro-*
25 *vided under a method of payment of annuities elected by the*

1 annuitant under section 8424(b) of this title or in accordance
2 with an election made by the annuitant under section
3 8434(a) or 8436(c) of this title. The amount of the survivor
4 annuity shall be determined on an actuarial basis under reg-
5 ulations prescribed by the Executive Director.

6 “(b)(1) Except as provided in subsection (d) of this sec-
7 tion, the amount in the account established and maintained
8 for a deceased participant or deceased former participant
9 (other than a deceased annuitant) pursuant to section
10 8428(a) of this title, determined on the date of an election
11 under subsection (c) of this section, shall, subject to the limits
12 of the entitlement set out in section 8422(a)(1) of this title
13 (without regard to section 8422(a)(2) of this title), be paid as
14 provided in paragraph (2) of this subsection.

15 “(2)(A) Except as provided in subparagraph (B) of this
16 paragraph, payment under paragraph (1) of this subsection
17 shall be made to the surviving spouse of the deceased partici-
18 pant or former participant pursuant to the method elected
19 under subsection (c) of this section.

20 “(B) If a deceased participant or former participant re-
21 ferred to in paragraph (1) of this subsection is not survived
22 by a spouse, payment under such paragraph shall be made
23 to—

24 “(i) any individual who has an insurable interest
25 in the participant or former participant and has been

1 *designated by the participant for the purpose of such*
2 *paragraph under regulations prescribed by the Execu-*
3 *tive Director; or*

4 “(ii) *if the deceased participant or former partici-*
5 *pant did not make a designation as provided in clause*
6 *(i) of this subparagraph, to the estate of the deceased*
7 *participant or former participant.*

8 “(c) *A surviving spouse or another individual who is*
9 *entitled to payment of benefits under subsection (b) of this*
10 *section may elect—*

11 “(1) *to receive an annuity from the Fund payable*
12 *monthly for life;*

13 “(2) *to transfer the amount referred to in such*
14 *subsection to an individual retirement account (within*
15 *the meaning of the Internal Revenue Code of 1954) of*
16 *the surviving spouse; or*

17 “(3) *to withdraw such amount in one or more*
18 *payments.*

19 “(d) *Any amount required for the payment of a survivor*
20 *annuity with respect to a deceased participant or deceased*
21 *former participant out of the Thrift Savings Fund pursuant*
22 *to section 8435 of this title shall be deducted and withheld*
23 *from a distribution made with respect to the deceased partici-*
24 *pant or deceased former participant pursuant to subsection*
25 *(b) of this section. The amount deducted and withheld shall*

1 *be maintained in the Thrift Savings Fund until expended in*
2 *payment of the survivor annuity or until the survivor annu-*
3 *ity terminates. Any sums remaining from the amount deduct-*
4 *ed and withheld after the termination of the survivor annuity,*
5 *plus net earnings realized from investment of such amount,*
6 *shall be distributed as provided in subsection (b) of this sec-*
7 *tion, as the case may be.*

8 ***“§ 8434. Basic and thrift savings plan survivor benefits relating to mar-***
9 ***riage after commencement of an annuity***

10 *“(a) If an annuitant—*

11 *“(1) is married on the date that the annuitant ap-*
12 *plies for payment of an annuity under subchapter II of*
13 *this chapter to commence, the marriage terminates, and*
14 *the annuitant remarries, or*

15 *“(2) is not married on such date and marries*
16 *after such date,*

17 *the annuitant may irrevocably elect during the later marriage*
18 *to provide an annuity for such annuitant’s spouse under the*
19 *method of payment described in section 8416(a)(2)(B) or*
20 *subparagraph (B) or (D) of section 8424(a)(2) of this title.*
21 *An election under this subparagraph shall be made in a*
22 *signed writing received by the Office within 2 years after the*
23 *date of the remarriage or marriage, as the case may be.*

24 *“(b) An election under subsection (a) of this section*
25 *shall be effective the first day of the second month beginning*

1 *after the election is received by the Office (in the case of a*
2 *survivor annuity payable out of the Fund) or the Executive*
3 *Director (in the case of a survivor annuity payable out of the*
4 *Thrift Savings Fund), but not earlier than 9 months after*
5 *the date of the remarriage referred to in paragraph (1) of such*
6 *subsection or the date of the marriage referred to in para-*
7 *graph (2) of such subsection, as the case may be.*

8 “(c) *An annuitant making an election under subsection*
9 *(a) of this section to provide a survivor annuity payable out*
10 *of the Fund shall, within 2 years after the date of the remar-*
11 *riage referred to in paragraph (1) of such subsection or the*
12 *date of the marriage referred to in paragraph (2) of such*
13 *subsection, as the case may be, deposit in the Fund an*
14 *amount determined by the Office, as nearly as may be ad-*
15 *ministratively feasible, to reflect the amount by which the*
16 *annuity of such annuitant would have been reduced if the*
17 *election had been in effect since—*

18 “(1) *the date that payment of an annuity to the*
19 *annuitant under subchapter II of this chapter com-*
20 *menced, or*

21 “(2) *if the annuity had previously been reduced to*
22 *provide for a survivor annuity under section 8432 of*
23 *this title, the date the previous reduction in such annu-*
24 *itant's annuity was terminated under section 8415(b)*
25 *of this title,*

1 *plus interest computed as provided in section 8438(a) of this*
 2 *title.*

3 “(d) Notwithstanding any other provision of this sec-
 4 tion, an election under this section may not be made for the
 5 purpose of providing a survivor annuity payable from the
 6 Fund to a spouse of an annuitant by remarriage if—

7 “(A) such spouse was married to the annuitant on
 8 the date that payment of an annuity to the annuitant
 9 under subchapter II of this chapter commenced; and

10 “(B) rights to survivor benefits for such spouse
 11 based on marriage to such annuitant were then waived
 12 under section 8416(b)(2) of this title.

13 “§ 8435. **Survivor benefits for eligible former spouses: entitlement;**
 14 **amount**

15 “(a) Subject to subsections (b) through (g) of this sec-
 16 tion, an eligible former spouse of a deceased participant who
 17 died after performing 18 or more months of service and an
 18 eligible former spouse of a deceased former participant who
 19 died entitled to an immediate or deferred annuity under sec-
 20 tion 8411 or 8412 of this title is entitled to a survivor annu-
 21 ity under this section if and to the extent that—

22 “(1) an election under section 8436 of this title,

23 “(2) any court decree dissolving or annulling the
 24 marriage of the participant or former participant and
 25 the eligible former spouse, or

1 “(3) any court order or court-approved property
2 settlement agreement incident to such decree,
3 expressly provides for such survivor annuity.

4 “(b)(1) The amount of the survivor annuity payable
5 from the Fund to an eligible former spouse of a deceased
6 participant or deceased former participant under this section
7 may not exceed the excess, if any, of—

8 “(A) the amount applicable in the case of such el-
9 igible former spouse, as determined under paragraph
10 (2) of this subsection, over

11 “(B) the total amount of all other survivor annu-
12 ities payable from the Fund under this section to other
13 eligible former spouses of the participant or former par-
14 ticipant based on the order of precedence provided in
15 subsection (d) of this section.

16 “(2) For the purposes of paragraph (1)(A) of this sub-
17 section, the amount applicable in the case of an eligible
18 former spouse of a deceased participant or deceased former
19 participant is the amount which would be computed for a
20 surviving spouse of the deceased—

21 “(A) as provided in section 8416(a)(2)(B) of this
22 title, if the deceased was an annuitant on such day;

23 “(B) as provided in section 8431(a) of this title,
24 if the deceased was a participant described in para-
25 graph (1) of such section 8431(a); or

1 “(C) as provided in section 8431(b) of this title,
2 if the deceased was a former participant described in
3 paragraph (1) of such section 8431(b).

4 “(c) The total amount of all survivor annuities payable
5 from the Thrift Savings Fund to eligible former spouses of a
6 deceased participant or deceased former participant pursuant
7 to this section may not exceed the amount of the survivor
8 annuities that would be payable to the former spouses out of
9 100 percent of the balance in the account of the deceased
10 participant or deceased former participant, plus anticipated
11 net earnings from investments allocable to such account, de-
12 termined on an actuarial basis in accordance with regula-
13 tions prescribed by the Executive Director.

14 “(d) If more than one eligible former spouse is entitled
15 to a survivor annuity pursuant to this section, the amount of
16 each such survivor annuity shall be limited appropriately to
17 carry out subsection (b) or (c) of this section on a first-come,
18 first-served basis determined by reference to the date an elec-
19 tion is properly made pursuant to section 8436 of this title or
20 the date on which the court decree, order, or court-approved
21 agreement applicable to the entitlement was issued, as the
22 case may be.

23 “(e) The commencement and termination dates of a sur-
24 vivor annuity payable under this section to an eligible former
25 spouse of a deceased participant or deceased former partici-

1 *pant shall be the commencement and termination dates deter-*
2 *mined under the provisions of the applicable court order,*
3 *decree, or agreement or an election, as the case may be (if*
4 *provided in such order, decree, agreement, or election), except*
5 *that any such survivor annuity—*

6 “(1) shall not commence before—

7 “(A) the day after the participant or former
8 participant dies, or

9 “(B) the first day of the second month begin-
10 ning after the date on which the Office receives
11 written notice of the court order, decree, or agree-
12 ment or the election, as the case may be, together
13 with such additional information or documenta-
14 tion as the Office requires,

15 whichever is later, and

16 “(2) shall terminate not later than the date pro-
17 vided in section 8464(b)(2) of this title.

18 “(f) For the purposes of this section, a court decree,
19 order, or agreement or an election referred to in subsection
20 (a) of this section shall not be effective, in the case of a survi-
21 vor annuity payable out of the Fund to a former spouse, to
22 the extent that the election is inconsistent with any joint
23 waiver previously executed with respect to such former spouse
24 under section 8416(b)(2) of this title.

1 “(g) Any payment under this section to a person bars
2 recovery by any other person.

3 **“§ 8436. Survivor benefits for former spouses: elections, deposits and**
4 **collections, and administrative provisions**

5 “(a)(1) If an annuitant has an eligible former spouse on
6 the date that the annuitant applies for payment of an annuity
7 to the annuitant under subchapter II of this chapter to com-
8 mence, the annuitant may elect, under procedures prescribed
9 by the Office, to provide a survivor annuity for such former
10 spouse under section 8435 of this title. An election under this
11 paragraph shall be made on such date or not later than the
12 date which is 2 years after the date on which the marriage of
13 the former spouse to the annuitant was dissolved or annulled,
14 whichever is later. The election shall specify the amount of
15 the survivor annuity to be provided under this paragraph.

16 “(2) If an annuitant makes an election under para-
17 graph (1) of this subsection to provide a survivor annuity
18 payable out of the Fund and the annuitant makes the election
19 during the 2-year period referred to in such paragraph, the
20 annuitant shall deposit in the Fund, within such period, an
21 amount determined by the Office, as nearly as may be ad-
22 ministratively feasible, to reflect the amount by which the
23 annuity of such an annuitant would have been reduced if the
24 election had been continuously in effect since the date the

1 *annuity commenced, plus interest computed as provided in*
2 *section 8438(a) of this title.*

3 “(3) *An election under paragraph (1) of this subsec-*
4 *tion—*

5 “(A) *shall not be effective to the extent that it con-*
6 *flicts with—*

7 “(i) *any court decree or order referred to in*
8 *subsection (a) of section 8435 of this title, or*

9 “(ii) *any agreement referred to in such sub-*
10 *section,*

11 *which is received by the Office before the date on*
12 *which such election is made;*

13 “(B) *shall not be effective to the extent that the*
14 *amount of the annuity specified in the election ex-*
15 *ceeds—*

16 “(i) *in the case of a survivor annuity pay-*
17 *able from the Fund, the amount determined pur-*
18 *suant to subsections (b)(2) and (d) of section*
19 *8435 of this title; or*

20 “(ii) *in the case of a survivor annuity pay-*
21 *able from the Thrift Savings Fund, the amount*
22 *determined pursuant to subsections (c) and (d) of*
23 *section 8435 of this title; and*

24 “(C) *shall not be effective, in the case of an annu-*
25 *itant who is married on the date of the election, unless*

1 *the election is made with the written consent of the an-*
2 *nuitant's spouse.*

3 “(b) *An annuitant who has elected to provide a survivor*
4 *annuity for an eligible former spouse pursuant to subsection*
5 *(a) of this section or who has an eligible former spouse enti-*
6 *tled to receive a survivor annuity with respect to the annui-*
7 *tant under paragraph (2) or (3) of section 8435(a) of this*
8 *title may make an election to provide or increase a survivor*
9 *annuity for any other eligible former spouse of the annuitant*
10 *within the same period that, and subject to the same condi-*
11 *tions under which, an election could be made under subsec-*
12 *tion (c) of this section for a spouse of the annuitant (subject*
13 *to the provisions of subsection (a)(3)(C) of this section relat-*
14 *ing to the consent of a spouse, if the annuitant is then mar-*
15 *ried). The opportunity to make an election under the preced-*
16 *ing sentence is in addition to any opportunity otherwise pro-*
17 *vided under this section.*

18 “(c)(1) *If the entitlement of an eligible former spouse of*
19 *an annuitant to a survivor annuity under this subchapter is*
20 *terminated or reduced by reason of the remarriage or death of*
21 *the former spouse, the annuitant may elect, in a signed writ-*
22 *ing received by the Office (in the case of a survivor annuity*
23 *to be paid out of the Fund) or the Executive Director (in the*
24 *case of a survivor annuity to be paid out of the Thrift Sav-*
25 *ings Fund) within 2 years after the former spouse's date of*

1 *death or remarriage, as the case may be, to provide a survivor*
2 *annuity to the annuitant's spouse.*

3 “(2) *A survivor annuity elected under paragraph (1) of*
4 *this subsection shall be paid under the method described in*
5 *section 8416(a)(2)(B) of this title (in the case of a terminated*
6 *or reduced entitlement payable out of the Fund) or in sub-*
7 *paragraph (B) or (D) of section 8424(a)(2) of this title (in*
8 *the case of a terminated or reduced entitlement payable from*
9 *the Thrift Savings Fund).*

10 “(d) *If the entitlement of an annuitant's spouse to a*
11 *survivor annuity under this subchapter is terminated by*
12 *reason of the death of the spouse, the annuitant may elect, in*
13 *a signed writing received by the Office (in the case of a survi-*
14 *vor annuity to be paid out of the Fund) or the Executive*
15 *Director (in the case of a survivor annuity to be paid out of*
16 *the Thrift Savings Fund) within 2 years after the spouse's*
17 *date of death to provide or increase a survivor annuity for a*
18 *former spouse of the annuitant.*

19 “(e) *The requirement that the spouse of an annuitant*
20 *waive a right to a survivor annuity under this subchapter as*
21 *a condition for an election authorized by subsection (a)(3)(C)*
22 *of this section shall not apply if the participant or annuitant*
23 *establishes to the satisfaction of the Office that—*

24 “(1) *the spouse's whereabouts cannot reasonably*
25 *be determined; or*

1 “(2) due to exceptional circumstances, it would be
2 inappropriate to require the participant or annuitant to
3 obtain the spouse’s consent.

4 **“§ 8437. Termination of entitlement**

5 *“An election of an annuitant to provide a survivor an-*
6 *nuity to the annuitant’s spouse under this subchapter termi-*
7 *nates on the first day of the first month beginning after—*

8 “(1) the date of the death of the spouse; or

9 “(2) the date of the dissolution of the spouse’s
10 marriage to the annuitant.

11 **“§ 8438. Deposits to the Fund**

12 “(a) For the purposes of section 8434(c) or 8436(a)(2)
13 of this title, the annual rate of interest for each year during
14 which an annuity would have been reduced if the election
15 referred to in such section had been in effect on and after the
16 applicable date referred to in such section shall be the percent
17 determined for such year under section 8334(e) of this title.

18 “(b) If an annuitant does not make a deposit required
19 by section 8434(c) or 8436(a)(2) of this title, the Office shall
20 collect such amount by offset against the annuitant’s annuity
21 payable from the Fund, up to a maximum of 25 percent of
22 the net annuity otherwise payable to the annuitant. The an-
23 nuitant is deemed to consent to such offset.

1 “(c) *The Office may extend the time limit for making a*
2 *deposit required by section 8434(c) or 8436(a)(2) of this title*
3 *in any case for good cause shown.*

4 “*SUBCHAPTER V—DISABILITY BENEFITS*

5 “§ 8441. *Definitions*

6 “*For the purposes of this subchapter—*

7 “(1) *the term ‘administrator of benefits’ means—*

8 “(A) *the Office; or*

9 “(B) *an insurance company or other entity*

10 *which—*

11 “(i) *offers claims payment services and*

12 *related administrative services under benefit*

13 *plans provided by employers in the private*

14 *sector; and*

15 “(ii) *has entered into a contract with*

16 *the Office pursuant to section 8450 of this*

17 *title;*

18 “(2) *the term ‘disability benefits under the Social*

19 *Security Act’ means disability insurance benefits pay-*

20 *able under section 223 of the Social Security Act or*

21 *benefits payable under section 202 of such Act by*

22 *reason of being under a disability;*

23 “(3) *the term ‘disability date’, when used with re-*

24 *spect to an eligible participant, means the date the eli-*

25 *gible participant became disabled;*

1 “(4) the term ‘disabled’, when used with respect to
2 an eligible participant, means that the eligible partici-
3 pant—

4 “(A) is under a disability within the mean-
5 ing of section 223 of the Social Security Act; or

6 “(B) is unable, because of disease or injury,
7 to render useful and efficient service in the par-
8 ticipant’s position and is not qualified for reas-
9 signment, under procedures prescribed by the
10 Office, to a vacant position—

11 “(i) which is in the participant’s em-
12 ploying agency and is in the participant’s
13 commuting area;

14 “(ii) which is at the same grade or pay
15 level as the participant’s position; and

16 “(iii) in which the participant would be
17 able to render useful and efficient service;

18 “(5) the term ‘eligible participant’ means an em-
19 ployee or Member whose service exceeds 18 months
20 and—

21 “(A) who—

22 “(i) has applied for disability benefits
23 under the Social Security Act and has been
24 determined to be under a disability for the

1 *purposes of title II of the Social Security*
2 *Act; or*

3 “(ii) *in the case of an employee or*
4 *Member who is not entitled to disability ben-*
5 *efits under the Social Security Act by*
6 *reason of insufficient quarters of coverage,*
7 *has been determined by an administrator of*
8 *benefits to be disabled within the meaning of*
9 *paragraph (4)(A) of this section on the basis*
10 *of a report of examination required by sec-*
11 *tion 8445 of this title; or*

12 “(B) *who has been determined by an admin-*
13 *istrator of benefits to be disabled within the mean-*
14 *ing of paragraph (4)(B) of this section on the*
15 *basis of a report of examination required by sec-*
16 *tion 8445 of this title and the findings of the*
17 *Office with respect to the reassignment of the*
18 *employee;*

19 “(6) *the term ‘final average pay’, when used with*
20 *respect to a disabled eligible participant, means the*
21 *participant’s average pay on the participant’s disability*
22 *date increased, each time after such date that the rates*
23 *of pay under the General Schedule are increased pur-*
24 *suant to section 5305 of this title, by the same overall*

1 *average percent of the increase in such rates, and*
2 *compounded;*

3 “(7) the term ‘onset average pay’, when used with
4 *respect to a disabled eligible participant, means the*
5 *participant’s average pay on the participant’s disability*
6 *date increased on January 1 of each year after such*
7 *date by the same percent by which annuities referred to*
8 *in paragraph (1) of section 8462(b) of this title are in-*
9 *creased under such section 8462(b)(2)(C) in December*
10 *of the preceding year, and compounded; and*

11 “(8) the term ‘projected service’, when used with
12 *respect to a disabled eligible participant, means the*
13 *sum of the number of years of service performed by the*
14 *participant before the participant’s disability date and*
15 *the number of years, if any, after such date and before*
16 *the date the participant becomes—*

17 “(A) in the case of an eligible participant re-
18 *ferred to in subparagraph (5)(A) of this section,*
19 *62 years of age; or*

20 “(B) in the case of an eligible participant re-
21 *ferred to in subparagraph (5)(B) of this section,*
22 *55 years of age.*

23 **“§ 8442. Entitlement**

24 “(a)(1) *A person who is an eligible participant, is dis-*
25 *abled, and has used all sick leave accrued and accumulated*

1 *under subchapter I of chapter 63 of this title or any other*
2 *similar applicable provision of law relating to Government*
3 *employment is entitled to receive disability benefits under*
4 *this subchapter while—*

5 “(A) *in the case of a person who is disabled*
6 *within the meaning of section 8441(4)(A) of this title,*
7 *such person is under 62 years of age and during the*
8 *month in which such person becomes such age; and*

9 “(B) *in the case of a person who is disabled*
10 *within the meaning of section 8441(4)(B) of this title,*
11 *such person is under 55 years of age and during the*
12 *month in which such person becomes such age.*

13 “(2) *On and after the first day of the first month begin-*
14 *ning after the month in which a person referred to in para-*
15 *graph (1) of this subsection becomes the maximum age pre-*
16 *scribed for such person in subparagraph (A) or (B) of such*
17 *paragraph, the person shall be treated as an eligible partici-*
18 *pant for the purposes of entitlement to benefits under subsec-*
19 *tion (b) of this section.*

20 “(b)(1) *Subject to paragraph (3) of this subsection, an*
21 *eligible participant who—*

22 “(A) *is disabled within the meaning of section*
23 *8441(4)(A) of this title and is not less than 62 years*
24 *of age, or*

1 “(B) is disabled within the meaning of section
2 8441(4)(B) of this title and is not less than 55 years
3 of age,
4 and who has 5 or more years of service and projected service
5 shall be entitled to an annuity as provided in subchapter II
6 of this title.

7 “(2) For the purposes of applying the provisions of sub-
8 chapter II of this title in the case of an eligible participant
9 pursuant to paragraph (1) of this subsection—

10 “(A) the eligible participant shall be deemed to
11 have separated from Government employment on the
12 day before the date the participant becomes entitled to
13 an annuity pursuant to paragraph (1) of this subsec-
14 tion;

15 “(B) the service of the participant shall include
16 the participant’s projected service; and

17 “(C) the participant’s average pay shall be equal
18 to—

19 “(i) in the case of a participant not described
20 in clause (ii) of this subparagraph, the partici-
21 pant’s onset average pay; and

22 “(ii) in the case of a participant who has
23 elected to make contributions under section
24 8418(c) of this title and has not received a refund

1 *of such contributions under section 8420 of this*
2 *title, the participant's final average pay.*

3 “(3)(A) *If an eligible participant has not elected to*
4 *make contributions under section 8418(c) of this title or has*
5 *received, under section 8420 of this title, a refund of the con-*
6 *tributions made by the participant pursuant to an election*
7 *made under such section 8418(c), the amount of the annuity*
8 *which the participant is entitled to receive under subchapter*
9 *II of this chapter by reason of the application of paragraph*
10 *(1) of this subsection shall be the amount determined under*
11 *subparagraph (B) of this paragraph.*

12 “(B) *The amount of the annuity which an eligible par-*
13 *ticipant referred to in subparagraph (A) of this paragraph is*
14 *entitled to receive under subchapter II of this chapter by*
15 *reason of the application of paragraph (1) of this subsection*
16 *shall be equal to the lesser of—*

17 “(i) *the amount of the disability benefits which*
18 *such eligible participant was receiving under this sub-*
19 *chapter on the day before the date the participant be-*
20 *comes entitled to receive such annuity; or*

21 “(ii) *the amount of the annuity computed in the*
22 *case of such participant under the provisions of such*
23 *subchapter.*

24 “(c) *If the condition of an eligible participant who is*
25 *disabled within the meaning of subparagraph (A) or (B) of*

1 *section 8441(4) of this title changes such that the participant*
2 *is disabled within the meaning of the other such subpara-*
3 *graph, the entitlement of such participant to receive disability*
4 *benefits under this subchapter shall be adjusted as appropri-*
5 *ate to reflect the changed condition.*

6 ***“§ 8443. Computation of benefits***

7 *“(a) The annual rate of the disability benefits payable*
8 *under section 8442(a) of this title to an eligible participant*
9 *referred to in section 8441(5)(A) of this title shall be equal to*
10 *the excess of 60 percent of the participant’s average pay on*
11 *the participant’s disability date over the amount, if any,*
12 *which is payable or, on proper application would be payable*
13 *to the participant as disability benefits under the Social Se-*
14 *curity Act on such date.*

15 *“(b) The annual rate of the disability benefits payable*
16 *under section 8442(a) of this title to an eligible participant*
17 *referred to in section 8441(5)(B) of this title—*

18 *“(1) during the period ending 1 year after the eli-*
19 *gible participant’s disability date, shall be equal to the*
20 *excess of 60 percent of the participant’s average pay on*
21 *the participant’s disability date over the amount, if*
22 *any, which is payable or, on proper application would*
23 *be payable to the participant as disability benefits*
24 *under the Social Security Act on such date; and*

1 “(2) after such period, while the participant is
2 under 55 years of age, shall be equal to the excess of—

3 “(A) 40 percent of the participant’s average
4 pay on the participant’s disability date as such
5 average pay is increased by the same percent by
6 which the amount of the participant’s disability
7 benefits computed under paragraph (1) of this
8 subsection was increased on the first January 1
9 after such date, under section 8462 of this title,
10 over

11 “(B) the amount of the disability benefits
12 under the Social Security Act computed for the
13 purpose of paragraph (1).

14 **“§ 8444. Application**

15 “(a) Except as provided in subsection (b) of this section,
16 a claim of a participant for disability benefits under this sub-
17 chapter may be allowed only if the participant files with the
18 appropriate administrator of benefits an application for the
19 disability benefits before the date the participant separates
20 from Government employment or within 1 year after such
21 date.

22 “(b) An appropriate administrator of benefits may
23 waive the time limitation set out in subsection (a) of this
24 section in the case of a participant if—

1 “(1) the administrator of benefits determines that
2 the participant was mentally incompetent on the date
3 the participant separated from Government employ-
4 ment or within 1 year after such date; and

5 “(2) the application for disability benefits is filed
6 within 1 year after the date the participant is restored
7 to mental competency or the date a fiduciary is ap-
8 pointed to manage the financial affairs of the partici-
9 pant, whichever date is earlier.

10 **“§ 8445. Medical examinations**

11 “(a) A participant applying for or receiving disability
12 benefits under section 8442(a) of this title shall be examined
13 by a physician under the direction of the appropriate admin-
14 istrator of benefits at such times as such administrator may
15 require.

16 “(b) A physician examining a participant under subsec-
17 tion (a) of this section shall report to the appropriate admin-
18 istrator of benefits the diagnosis and prognosis with respect to
19 such participant.

20 “(c) Notwithstanding any other provision of this sub-
21 chapter, any participant who fails to submit to the examina-
22 tion required under subsection (a) of this section shall not be
23 entitled to disability benefits.

1 ***“§ 8446. Offers of alternative employment***

2 “(a)(1) Any participant who is applying for disability
3 benefits under this subchapter, is examined pursuant to sec-
4 tion 8445 of this title, and is determined on the basis of the
5 examination to be able to perform the work required in any
6 position described in paragraph (2) of this subsection shall be
7 considered for appointment to such position.

8 “(2) A position referred to in paragraph (1) of this sub-
9 section is a position which is in the agency of the Govern-
10 ment employing the participant referred to in such para-
11 graph, is a position for which the participant is qualified, is
12 not lower than the grade or pay level of the participant’s posi-
13 tion, and is within the participant’s commuting area.

14 “(b) Any participant who is appointed to or offered a
15 position under subsection (a) of this section is entitled to
16 appeal to the Merit Systems Protection Board under section
17 7701 of this title any determination that the participant is
18 able to perform the work required of such position.

19 ***“§ 8447. Recovery or restoration of earning capacity***

20 “(a)(1) If an administrator of benefits determines that
21 an individual who is receiving disability benefits under this
22 subchapter has recovered from the disability before becoming
23 62 years of age (in the case of an individual who is disabled
24 within the meaning of section 8441(4)(A) of this title) or 55
25 years of age (in the case of an individual who is disabled
26 within the meaning of section 8441(4)(B) of this title), pay-

1 *ment of the benefits shall terminate on the date the individual*
2 *is reemployed by the Government or 1 year after the date of*
3 *the medical examination on which such administrator's de-*
4 *termination is based, whichever date is earlier.*

5 “(2)(A) *Payment of disability benefits to any individ-*
6 *ual under this chapter that has been terminated pursuant to*
7 *paragraph (1) of this subsection shall be resumed if there is a*
8 *recurrence of the individual's disability, as determined by an*
9 *administrator of benefits after a medical examination of the*
10 *individual, and the individual is under 62 years of age (in*
11 *the case of an individual who is disabled within the meaning*
12 *of section 8441(4)(A) of this title) or under 55 years of age*
13 *(in the case of an individual who is disabled within the*
14 *meaning of section 8441(4)(B) of this title).*

15 “(B) *A resumption of payment of disability benefits*
16 *under subparagraph (A) of this paragraph shall be effective*
17 *on the date the medical examination referred to in such para-*
18 *graph was completed.*

19 “(C) *The annual rate of the disability benefits payable*
20 *to an individual upon resumption of payment under subpara-*
21 *graph (A) of this paragraph shall be the annual rate that*
22 *would have been payable to the individual if payment of dis-*
23 *ability benefits had not been terminated pursuant to para-*
24 *graph (1) of this subsection.*

1 “(b)(1) If the administrator of benefits determines that
2 an individual who is receiving disability benefits under this
3 subchapter has received, during the latest calendar year,
4 income from wages or self-employment or both totalling the
5 amount equal to 60 percent of the rate of pay payable for the
6 individual's position of Government employment on the indi-
7 vidual's disability date determined for the purposes of this
8 subchapter (increased as if such rate of pay had been in-
9 creased, by the same percent as the overall percent increase in
10 the rates of pay under the General Schedule, each time such
11 rates had been increased pursuant to section 5305 of this title
12 since such date), payment of the benefits shall terminate on
13 the date 60 days after the end of such calendar year.

14 “(2)(A) If payment of disability benefits under this sub-
15 chapter has been terminated pursuant to paragraph (1) of
16 this subsection in the case of an individual who is not reem-
17 ployed in a position subject to this chapter, who continues to
18 be disabled, who is under 62 years of age (in the case of an
19 individual who is disabled within the meaning of section
20 8441(4)(A) of this title) or under 55 years of age (in the case
21 of an individual who is disabled within the meaning of sec-
22 tion 8441(4)(B) of this title), and who receives in the calen-
23 dar year in which the disability benefits were terminated, or
24 any calendar year after such year, income from wages or
25 self-employment or both totalling less than the amount com-

1 *puted in such case as provided in such paragraph, payment*
2 *of disability benefits to the individual under this subchapter*
3 *shall be resumed.*

4 “(B) *A resumption of payment of disability benefits to*
5 *an individual under subparagraph (A) of this paragraph*
6 *shall be effective the first day of the first year beginning after*
7 *the year in which the individual received the income referred*
8 *to in such subparagraph.*

9 “(C) *The annual rate of the disability benefits payable*
10 *to an individual upon resumption of payment of disability*
11 *benefits under subparagraph (A) of this paragraph shall be*
12 *the annual rate that would have been payable to the individ-*
13 *ual if payment had not been terminated pursuant to para-*
14 *graph (1) of this subsection.*

15 “(c) *Any determination under this section may be ap-*
16 *pealed to the Office. A determination of the Office in such an*
17 *appeal may be appealed to the Merit Systems Protection*
18 *Board under section 7701 of this title. The Merit Systems*
19 *Protection Board may hear and adjudicate any such appeal.*

20 **“§ 8448. Relationship to workers’ compensation**

21 “(a)(1) *An individual is not entitled to receive disability*
22 *benefits under this subchapter and compensation for injury to*
23 *or disability of the individual under subchapter I of chapter*
24 *81 of this title covering the same period of time.*

1 “(2) Paragraph (1) of this subsection does not bar the
2 right of a claimant to the greater benefit conferred by either
3 subchapter referred to in such paragraph for any part of the
4 period referred to in such paragraph.

5 “(3) Paragraph (1) of this subsection and the provisions
6 of subchapter I of chapter 81 of this title do not deny any
7 concurrent benefit to an individual under this subchapter and
8 under subchapter I of chapter 81 of this title if the benefit
9 under subchapter I of chapter 81 of this title is based on the
10 death of another individual.

11 “(b)(1) Subject to paragraph (2) of this subsection, an
12 individual's receipt of a lump-sum payment for compensation
13 under section 8135 of this title shall not affect the individ-
14 ual's entitlement to disability benefits under this subchapter.

15 “(2) If disability benefits are payable under this sub-
16 chapter by reason of the same disability for which a lump-
17 sum payment of compensation referred to in paragraph (1) of
18 this subsection has been made, so much of the compensation
19 as has been paid for a period extended beyond the date pay-
20 ment of the disability benefits commences, as determined by
21 the Department of Labor, shall be refunded to that Depart-
22 ment for credit to the Employees' Compensation Fund.
23 Before the individual may receive the disability benefits, the
24 individual shall—

1 “(A) refund to the Department of Labor the
2 amount representing the commuted compensation pay-
3 ments for the extended period; or

4 “(B) authorize the deduction of the amount from
5 the disability benefits.

6 Deductions from the disability benefits may be made from
7 accrued or accruing payments. The amounts deducted and
8 withheld from disability benefits shall be transmitted to the
9 Department of Labor for reimbursement to the Employees’
10 Compensation Fund. When the Department of Labor finds
11 that the financial circumstances of an individual entitled to
12 disability benefits under this subchapter warrant deferred re-
13 funding under this paragraph, deductions from the disability
14 benefits may be prorated against and paid from accruing
15 payments in such manner as the Department determines
16 appropriate.

17 **“§ 8449. Military reserve technicians**

18 “(a)(1) Except as provided in paragraph (2) of this sub-
19 section, a participant shall be entitled to disability benefits
20 under this subchapter in the same manner as an eligible par-
21 ticipant described in section 8441(5)(B) of this title if the
22 participant—

23 “(A) is separated from employment as a military
24 reserve technician by reason of a disability that dis-
25 qualifies the individual from membership in a reserve

1 *component of the Armed Forces specified in section*
2 *261(a) of title 10 or from holding the military grade*
3 *required for such employment:*

4 *“(B) is not considered disabled;*

5 *“(C) is not appointed to another position in the*
6 *Government (under subsection (b) of this section or*
7 *otherwise); and*

8 *“(D) has not declined an offer of appointment to a*
9 *position in the Government under subsection (b) of this*
10 *section.*

11 *“(2) Payment of disability benefits to an individual*
12 *under this section terminates—*

13 *“(A) on the date the individual is appointed to a*
14 *position in the Government (under subsection (b) of*
15 *this section or otherwise);*

16 *“(B) on the date the individual declines an offer*
17 *of appointment to a position in the Government pursu-*
18 *ant to subsection (b) of this section; or*

19 *“(C) as provided in section 8447(a) or 8447(b) of*
20 *this title.*

21 *“(b) Any individual applying for or receiving disability*
22 *benefits pursuant to this section shall, in accordance with*
23 *regulations prescribed by the Office, be considered by any*
24 *agency of the Government before any vacant position in the*
25 *agency is filled if—*

1 “(1) the position is located within the commuting
2 area of the individual’s former position;

3 “(2) the individual is qualified to serve in the
4 vacant position; and

5 “(3) the position is at the same grade or equiva-
6 lent level as the position from which the individual was
7 separated.

8 **“§ 8450. Administrative provisions**

9 “(a) For the purpose of this section, the term ‘State’
10 means a State of the United States, the District of Colum-
11 bia, the Commonwealth of Puerto Rico, and a territory or
12 possession of the United States.

13 “(b)(1) In order to provide for the administration of
14 benefits under this subchapter with maximum efficiency and
15 convenience for individuals entitled to such benefits, the
16 Office is authorized to contract with one or more insurance
17 companies or other entities described in section 8441(1)(A) of
18 this title which the Office determines is appropriately quali-
19 fied to perform some or all of the functions described in para-
20 graph (2) of this subsection (to the extent that the Office is
21 not expressly required by this subchapter to perform any
22 function). The authority under this paragraph shall be exer-
23 cised in accordance with provisions of this subchapter and
24 applicable regulations issued pursuant to section 8461(c) of
25 this title.

1 “(2) *The functions referred to in paragraph (1) of this*
2 *subsection are as follows:*

3 “(A) *Receive disability applications and deter-*
4 *mine benefits entitlements based upon medical evidence*
5 *and availability of alternative employment.*

6 “(B) *Compute the amount of a benefits entitle-*
7 *ment.*

8 “(C) *Receive, disburse, and account for monies*
9 *from the Federal Employees’ Disability Insurance*
10 *Fund.*

11 “(D) *Monitor individual cases for rehabilitation*
12 *opportunities and determine recovery from disability or*
13 *restoration to earning capacity.*

14 “(E) *Serve as a channel of communication of in-*
15 *formation relating to administration of this subchapter.*

16 “(F) *Otherwise assist, in such manner as a con-*
17 *tract entered into under paragraph (1) of this subsec-*
18 *tion may provide, in discharging administrative duties*
19 *necessary to carry out the provisions of this subchapter.*

20 “(c) *A contractor under a contract awarded under sub-*
21 *section (b) of this section shall establish an administrative*
22 *office under a name approved by the Office.*

23 “(d) *Subject to subsection (e) of this section, each con-*
24 *tract under this section shall be for a term not to exceed 5*
25 *years and may be automatically renewable, in the absence of*

1 *notice by either party of intention to terminate at the end of*
2 *the then current term, for successive terms of 1 year each.*

3 “(e) *The Office may terminate any such contract under*
4 *this section at any time (after such reasonable notice and*
5 *opportunity for hearing as the Office may prescribe in regu-*
6 *lations) if the Office finds that the contractor has failed sub-*
7 *stantially to carry out the contract or is carrying out the*
8 *contract in a manner which is inconsistent with the efficient*
9 *administration of this subchapter.*

10 “(f) *Each contract entered into under this section shall*
11 *provide for advances of monies from the Federal Employees’*
12 *Disability Insurance Fund to the contractor for purposes of*
13 *paying disability benefits under this subchapter and the costs*
14 *of administration, as determined by the Office to be neces-*
15 *sary and proper for carrying out the functions covered by the*
16 *contract.*

17 “(g) *The Director may include in contracts awarded*
18 *under subsection (b) of this section such terms and conditions*
19 *as he considers appropriate to protect the interests of partici-*
20 *pants and the United States.*

21 “(h) *All records established or maintained by an admin-*
22 *istrator of benefits in the administration of this subchapter*
23 *shall be the property of the United States. The administrator*
24 *of benefits shall deliver such records to the Office whenever*
25 *requested by the Office.*

1 “(i) *The provisions of any contract under this subchap-*
2 *ter which relate to the nature or extent of coverage or benefits*
3 *(including payments with respect to benefits) shall supersede*
4 *and preempt any law of any State or political subdivision*
5 *thereof, or any regulation issued thereunder, which relates to*
6 *group disability insurance to the extent that the law or regu-*
7 *lation is inconsistent with the contractual provisions.*

8 “(j) *The Secretary of Health and Human Services shall*
9 *furnish to the Office and an administrator of benefits such*
10 *information relating to the administration of the Social Se-*
11 *curity Act, including information on individuals claiming*
12 *entitlement to benefits under this subchapter, as the Office*
13 *determines to be necessary to carry out this subchapter.*

14 **“§ 8451. Annual accounting; special contingency reserve**

15 “(a) *A contract awarded under section 8450 of this title*
16 *shall include a provision requiring the administrator of bene-*
17 *fits under the contract to transmit an accounting to the Office*
18 *not later than 90 days after the end of each contract year.*
19 *The accounting shall set forth, in a form approved by the*
20 *Office—*

21 “(1) *the total amount of all monies advanced to*
22 *the contracting entity from the Federal Employees’*
23 *Disability Insurance Fund during the contract year;*

24 “(2) *the total of all benefit payments made during*
25 *the contract year; and*

1 “(3) the amounts of the authorized administrative
2 expenses charged for the contract year.

3 “(b) Any excess of the amount described in subsection
4 (a)(1) of this section over the sum of the amounts described in
5 subsections (a)(2) and (a)(3) of this section for a contract
6 year shall be credited to contract charges in the succeeding
7 contract year or returned to the Federal Employees’ Disabil-
8 ity Insurance Fund upon termination of the contract, as the
9 Office directs.

10 **“§ 8452. Federal Employees’ Disability Insurance Fund**

11 “(a) There is established in the Treasury of the United
12 States a fund to be known as the ‘Federal Employees’ Dis-
13 ability Insurance Fund’.

14 “(b)(1) In order to fund benefits and administrative ex-
15 penses under this subchapter, each agency of the Government
16 employing participants shall make periodic payments to the
17 Federal Employees’ Disability Insurance Fund equal to a
18 percentage of the basic pay of such participants which the
19 Office determines is appropriate. The Office shall base its
20 determination of an appropriate percentage on the disability
21 experience of participants employed by such agency.

22 “(2) An employing agency shall pay the amounts re-
23 quired by paragraph (1) of this subsection from the appro-
24 priation or fund available for payment of the basic pay or
25 salaries of employees of the agency. In the case of a partici-

1 *pant in the legislative branch who is paid by the Clerk of the*
2 *House of Representatives, the amount shall be paid from the*
3 *contingent fund of the House of Representatives.*

4 “(c) *Sums in the Federal Employees’ Disability Insur-*
5 *ance Fund shall be available without fiscal year limitation as*
6 *the Office determines necessary to pay disability benefits and*
7 *administrative expenses authorized by this subchapter.*

8 “(d) *The Secretary of the Treasury may invest and re-*
9 *invest any of the money in the Federal Employees’ Disabil-*
10 *ity Insurance Fund in interest-bearing obligations of the*
11 *United States and may sell such obligations for the purposes*
12 *of such fund. The interest on and the proceeds from the sale*
13 *of these obligations become a part of such fund.*

14 “(e)(1) *No tax, fee, or other monetary payment may be*
15 *imposed or collected by any State or by any political subdivi-*
16 *sion or other governmental authority thereof on, or with re-*
17 *spect to, any funds transferred to contractors under this sub-*
18 *chapter for payment and administration of disability benefits*
19 *under this subchapter.*

20 “(2) *Paragraph (1) of this subsection shall not be con-*
21 *strued to exempt any administrator of benefits from the impo-*
22 *sition, payment, or collection of a tax, fee, or other monetary*
23 *payment on the net income or profit accruing to or realized*
24 *by the administrator from business conducted under this sub-*

1 *chapter, if that tax, fee, or payment is applicable to a broad*
 2 *range of business activity.*

3 ***“SUBCHAPTER VI—GENERAL AND***
 4 ***ADMINISTRATIVE PROVISIONS***

5 ***“§ 8461. Authority of the Office of Personnel Management***

6 ***“(a) The Office shall pay all benefits that are payable***
 7 ***under this chapter from the Fund.***

8 ***“(b) The Office shall administer all provisions of this***
 9 ***chapter not specifically required to be administered by the***
 10 ***Board, the Executive Director, or any other entity.***

11 ***“(c) The Office may make regulations to carry out the***
 12 ***provisions of this chapter administered by the Office.***

13 ***“§ 8462. Cost-of-living adjustment in basic plan annuities, survivor an-***
 14 ***nuities, and disability benefits***

15 ***“(a) For the purpose of this section—***

16 ***“(1) the term ‘base quarter’, when used with re-***
 17 ***spect to a year, means the calendar quarter ending on***
 18 ***September 30 of such year; and***

19 ***“(2) the price index for a base quarter is the***
 20 ***arithmetic mean of such index for the 3 months com-***
 21 ***prising such quarter.***

22 ***“(b)(1) Except as provided in paragraph (2)(B) of this***
 23 ***subsection and subsection (c) of this section, effective Decem-***
 24 ***ber 1 of each year in which the price index for the base quar-***
 25 ***ter of such year exceeds the price index for the base quarter of***

1 *the preceding year, each annuity which is payable from the*
2 *Fund under subchapter II or IV of this chapter and com-*
3 *mences not later than such December 1 shall be increased by*
4 *the percentage computed under paragraph (2), (3), (4), (5),*
5 *(6), or (7) of this subsection, as applicable. This subsection*
6 *does not apply to an annuity or survivor annuity payable*
7 *from the Thrift Savings Fund.*

8 “(2)(A) *Except in the case of an annuitant to whom*
9 *paragraph (5) of this subsection applies, the annuity of an*
10 *annuitant who is authorized to elect to make contributions*
11 *under section 8418(c) of this title and (i) has not made such*
12 *an election, or (ii) has received, pursuant to section 8420 of*
13 *this title, a refund of contributions made under such section*
14 *8418(c) shall be increased as provided in this paragraph.*

15 “(B) *An annuity of an annuitant who is under 62*
16 *years of age on the effective date of an increase in annuities*
17 *under paragraph (1) of this subsection shall not be increased*
18 *under such paragraph.*

19 “(C) *The percentage by which an annuity is increased*
20 *under paragraph (1) of this subsection in any year in the*
21 *case of an annuitant who is at least 62 years of age and is*
22 *under 67 years of age on the date referred to in subparagraph*
23 *(B) of this paragraph shall be the excess, if any, of—*

1 “(i) the percentage of the increase in the price
2 index for the base quarter of such year over the price
3 index for the base quarter of the preceding year, over
4 “(ii) 2 percent.

5 “(D) The percentage by which an annuity is increased
6 under paragraph (1) of this subsection in any year in the
7 case of an annuitant who is at least 67 years of age on the
8 date referred to in subparagraph (B) of this paragraph shall
9 be the percentage of the increase in the price index for the
10 base quarter of such year over the price index for the base
11 quarter of the preceding year.

12 “(3)(A) Except in the case of an annuitant to whom
13 paragraph (5) of this subsection applies, the annuity of an
14 annuitant who has elected to make contributions under sec-
15 tion 8418(c) of this title and has not received a refund of
16 such contributions under section 8420 of this title shall be
17 increased as provided in this paragraph.

18 “(B) The percentage by which an annuity is increased
19 under paragraph (1) of this subsection in any year in the
20 case of an annuitant who is under 62 years of age on the
21 effective date of an increase in annuities under such para-
22 graph shall be the excess, if any, of—

23 “(i) the percentage of the increase in the price
24 index for the base quarter of such year over the price
25 index for the base quarter of the preceding year, over

1 “(ii) 2 percent.

2 “(C) The percentage by which an annuity is increased
3 under paragraph (1) of this subsection in any year in the
4 case of an annuitant who is at least 62 years of age on the
5 date referred to in subparagraph (B) of this paragraph shall
6 be the percentage of the increase in the price index for the
7 base quarter of such year over the price index for the base
8 quarter of the preceding year.

9 “(4)(A) Except in the case of an annuitant to whom
10 paragraph (5) of this subsection applies, the annuity which
11 an annuitant is entitled to receive under section 8411(c) or
12 8411(d) of this title shall be increased as provided in this
13 paragraph.

14 “(B) The percentage by which an annuity is increased
15 under paragraph (1) of this subsection in any year in the
16 case of an annuitant who is at least 55 years of age and is
17 under 67 years of age on the effective date of an increase in
18 annuities under paragraph (1) of this subsection shall be the
19 excess, if any, of—

20 “(i) the percentage of the increase in the price
21 index for the base quarter of such year over the price
22 index for the base quarter of the preceding year, over

23 “(ii) 2 percent.

24 “(C) The percentage by which an annuity is increased
25 under paragraph (1) of this subsection in any year in the

1 *case of an annuitant who is at least 67 years of age on the*
2 *date referred to in subparagraph (B) of this paragraph shall*
3 *be the percentage of the increase in the price index for the*
4 *base quarter of such year over the price index for the base*
5 *quarter of the preceding year.*

6 “(5)(A) *The annuity of an annuitant who is entitled to*
7 *an annuity under subchapter II of this chapter by reason of*
8 *section 8442(b) of this title, was authorized to elect to make*
9 *contributions under section 8418(c) of this title, did not make*
10 *such an election, and is under 67 years of age on the effective*
11 *date of an increase in annuities under paragraph (1) of this*
12 *subsection shall be increased under such paragraph in any*
13 *year by the percentage equal to the excess, if any, of—*

14 “(i) *the percentage of the increase in the price*
15 *index for the base quarter of such year over the price*
16 *index for the base quarter of the preceding year, over*
17 “(ii) *2 percent.*

18 “(B) *The annuity of an annuitant who is entitled to an*
19 *annuity under subchapter II of this chapter by reason of sec-*
20 *tion 8442(b) of this title, has elected to make contributions*
21 *under section 8418(c) of this title, and has not received a*
22 *refund of such contributions under section 8420 of this title*
23 *shall be increased under paragraph (1) of this subsection in*
24 *any year by the percentage of the increase in the price index*

1 *for the base quarter of such year over the price index for the*
2 *base quarter of the preceding year.*

3 “(6)(A) *The survivor annuity of a survivor who is enti-*
4 *tled to the survivor annuity under subchapter IV of this*
5 *chapter based on the service of a deceased participant, former*
6 *participant, or annuitant other than a deceased participant,*
7 *former participant, or annuitant referred to in paragraph*
8 *(7)(A) of this subsection shall be increased under paragraph*
9 *(1) of this subsection as provided in this paragraph.*

10 “(B) *The percentage by which a survivor annuity is*
11 *increased under paragraph (1) of this subsection in any year*
12 *in the case of a survivor annuitant who is described in sub-*
13 *paragraph (A) of this paragraph and is under 67 years of age*
14 *on the effective date of the increase in annuities under such*
15 *paragraph (1) in such year shall be the percentage equal to*
16 *the excess, if any, of—*

17 “(i) *the percentage of the increase in the price*
18 *index for the base quarter of such year over the price*
19 *index for the base quarter of the preceding year, over*
20 “(ii) *2 percent.*

21 “(C) *The percentage by which a survivor annuity is*
22 *increased under paragraph (1) of this subsection in any year*
23 *in the case of a survivor annuitant who is described in sub-*
24 *paragraph (A) of this paragraph and is at least 67 years of*

1 *age on the effective date of the increase in annuities under*
2 *such paragraph (1) in such year shall be the percentage of the*
3 *increase in the price index for the base quarter of such year*
4 *over the price index for the base quarter of the preceding*
5 *year.*

6 “(7)(A) *The survivor annuity of a survivor who is enti-*
7 *tled to the survivor annuity under subchapter IV of this*
8 *chapter based on the service of a deceased participant, former*
9 *participant, or annuitant who has elected to make contribu-*
10 *tions under section 8418(c) of this title and has not received*
11 *a refund of such contributions under section 8420 of this title*
12 *shall be increased under paragraph (1) of this subsection in*
13 *any year by the percentage computed under subparagraph*
14 *(B) of this paragraph.*

15 “(B) *The percentage by which a survivor annuity is*
16 *increased under paragraph (1) of this subsection in any year*
17 *in the case of a survivor annuitant described in subparagraph*
18 *(A) of this paragraph shall be the percentage of the increase*
19 *in the price index for the base quarter of such year over the*
20 *price index for the base quarter of the preceding year.*

21 “(c)(1) *The first increase (if any) made under subsec-*
22 *tion (b) of this section to an annuity payable to a participant*
23 *who retires, to the surviving spouse or surviving former*
24 *spouse of a deceased participant, or to the surviving spouse or*
25 *surviving former spouse of a deceased annuitant whose annu-*

1 *ity has never been increased under this subsection or subsec-*
2 *tion (b) of this section shall be equal to the product (adjusted*
3 *to the nearest one-tenth of 1 percent) of—*

4 “(A) *one-twelfth of the applicable percentage of*
5 *the adjustment computed under subsection (b) of this*
6 *section, multiplied by*

7 “(B)(i) *the number of months (counting any por-*
8 *tion of a month as a month) for which the annuity was*
9 *payable before the effective date of the increase, or*

10 “(ii) *in the case of a survivor annuity payable to*
11 *a surviving spouse or surviving former spouse of a de-*
12 *ceased annuitant whose annuity has never been so in-*
13 *creased, the number of months (counting any portion of*
14 *a month as a month) since the annuity was first pay-*
15 *able to the deceased annuitant.*

16 “(2) *Effective on its commencing date, an annuity re-*
17 *ferred to in subsection (b) of this section and payable to an*
18 *annuitant’s surviving spouse or surviving former spouse shall*
19 *be increased by the total percentage by which the deceased*
20 *annuitant’s annuity had been increased under such subsec-*
21 *tion during the period beginning on the date the deceased*
22 *annuitant’s annuity commenced and ending on the date of*
23 *the deceased annuitant’s death.*

24 “(d)(1) *Except as provided in paragraph (3) of this sub-*
25 *section and subsection (e) of this section, effective December*

1 *1 of each year in which the price index for the base quarter of*
2 *such year exceeds the price index for the base quarter of the*
3 *preceding year, the amount of each disability benefit which is*
4 *payable under subchapter V of this chapter and commences*
5 *not later than such December 1 shall be increased by the*
6 *percentage computed under paragraph (2) or (3) of this sub-*
7 *section, as applicable.*

8 “(2) *The amount of the disability benefit of a partici-*
9 *pant who was authorized to elect to make contributions under*
10 *section 8418(c) of this title and did not make such an election*
11 *shall be increased under paragraph (1) of this subsection in*
12 *any year by the percentage equal to the excess, if any, of—*

13 “(A) *the percentage of the increase in the price*
14 *index for the base quarter of such year over the price*
15 *index for the base quarter of the preceding year, over*

16 “(B) *2 percent.*

17 “(3) *The amount of the disability benefit of a partici-*
18 *pant who has elected to make contributions under section*
19 *8418(c) of this title and has not received a refund of such*
20 *contributions under section 8420 of this title shall be in-*
21 *creased under paragraph (1) of this subsection in any year*
22 *by the percentage of the increase in the price index for the*
23 *base quarter of such year over the price index for the base*
24 *quarter of the preceding year.*

1 “(e) *The first increase (if any) made under subsection*
2 *(d) of this section in a disability benefit which is payable to a*
3 *participant and has never been increased under this subsec-*
4 *tion or subsection (d) of this section shall be equal to the*
5 *product (adjusted to the nearest one-tenth of 1 percent) of—*

6 “(1) *one-twelfth of the applicable percentage of the*
7 *adjustment computed under subsection (d) of this sec-*
8 *tion, multiplied by*

9 “(2) *the number of months (counting any portion*
10 *of a month as a month) for which the disability benefit*
11 *was payable before the effective date of the increase.*

12 “(f) *The monthly installment of an annuity or disabil-*
13 *ity benefit payable after adjustment under this section shall*
14 *be rounded to the next lowest dollar, but the increase in the*
15 *monthly installment under this section shall be at least \$1.*

16 **“§ 8463. Rate of benefits**

17 *“Each annuity and disability benefit is stated as an*
18 *annual amount, one-twelfth of which, fixed at the next lowest*
19 *dollar, constitutes the monthly rate payable on the first busi-*
20 *ness day of the first month beginning after the last day of the*
21 *month for which the annuity or disability benefit has*
22 *accrued.*

23 **“§ 8464. Commencement and termination of annuities**

24 “(a)(1) *Except as otherwise provided in this chapter, the*
25 *annuity of a participant under subchapter II of this chapter*

1 *shall commence on the first day of the first month beginning*
2 *after—*

3 “(A) *the date the participant separates from Gov-*
4 *ernment employment entitled to an immediate annuity*
5 *under section 8411 of this title, or*

6 “(B) *in the case of a participant who is entitled to*
7 *a deferred annuity under section 8412 of this title and*
8 *is not entitled to an immediate annuity under section*
9 *8411 of this title, the date elected by the participant*
10 *under section 8412(a) of this title or the date the par-*
11 *ticipant becomes 62 years of age, whichever is earlier,*
12 *as the case may be.*

13 “(2) *The annuity of an annuitant under this chapter*
14 *terminates on the date of death or other terminating event*
15 *provided by law.*

16 “(b)(1) *Except as otherwise provided in this chapter, a*
17 *survivor annuity payable to an individual under this chapter*
18 *shall commence on the first day of the first month beginning*
19 *after the date of the death of the deceased participant or*
20 *former participant on whose death such annuity is based.*

21 “(2) *A survivor annuity payable to a surviving spouse*
22 *or an eligible former spouse of a deceased participant or de-*
23 *ceased former participant under this chapter terminates on*
24 *the last day of the last month ending before the surviving*

1 spouse or former spouse dies or, if the surviving spouse or
2 former spouse is less than 55 years of age, remarries.

3 ***“§ 8465. Waiver, allotment, and assignment of benefits***

4 “(a) An individual entitled to receive payment of bene-
5 fits under subchapter II of this chapter may decline to accept
6 all or any part of the amount of the benefits by a waiver
7 signed and filed with the Office. The waiver may be revoked
8 in writing at any time. Payment of the benefits waived may
9 not be made for the period during which the waiver is in
10 effect.

11 “(b) An individual entitled to receive payment of bene-
12 fits under subchapter II of this chapter may make allotments
13 or assignments of amounts from the benefits for such pur-
14 poses as the Office considers appropriate.

15 ***“§ 8466. Application for benefits***

16 “(a) No payment of benefits based on the service of a
17 former participant shall be made under this chapter unless an
18 application for payment of the benefits is received by the
19 Office before the one hundred and fifteenth anniversary of the
20 former participant’s birth.

21 “(b) Notwithstanding subsection (a) of this section, after
22 the death of a participant or former participant, a benefit
23 based on the participant’s or former participant’s service
24 shall not be paid under subchapter IV of this chapter unless
25 an application therefor is received by the Office within 30

1 *years after the death or other event which establishes the enti-*
2 *tlement to the benefit.*

3 ***“§ 8467. Court orders***

4 “(a) *Payments under this chapter which would other-*
5 *wise be made to a participant or former participant based*
6 *upon the service of the participant or former participant shall*
7 *be paid (in whole or in part) by the Office or the Executive*
8 *Director, as the case may be, to another person if and to the*
9 *extent that the terms of any court decree of divorce, annul-*
10 *ment, or legal separation, or the terms of any court order or*
11 *court-approved property settlement agreement incident to any*
12 *court decree of divorce, annulment, or legal separation ex-*
13 *pressly provide. Any payment under this paragraph to a*
14 *person bars recovery by any other person.*

15 “(b) *Subsection (a) of this section shall apply only to*
16 *payments made by the Office or the Executive Director*
17 *under this chapter after the date on which the Office or the*
18 *Executive Director, as the case may be, receives written*
19 *notice of such decree, order, or agreement, and such addition-*
20 *al information and documentation as the Office or the Exec-*
21 *utive Director may require.*

22 ***“§ 8468. Annuities and pay on reemployment***

23 “(a)(1) *Except in the case of an annuitant who has*
24 *made an election under subsection (b) of this section, if an*
25 *annuitant becomes employed in an appointive or elective po-*

1 sition in the Government, payment of any annuity under
2 subchapter II of this chapter to the annuitant terminates ef-
3 fective on the date of the employment, and the annuitant's
4 service on and after the date the annuitant becomes so em-
5 ployed is covered by this chapter. Upon termination of the
6 employment, the rights of the annuitant under subchapter II
7 of this chapter shall be redetermined. If the annuitant dies
8 while still so employed, a survivor annuity payable with re-
9 spect to the deceased annuitant shall be redetermined as if the
10 employment had otherwise terminated on the date of death.

11 “(2) The amount of an annuity resulting from a redeter-
12 mination of rights under this chapter pursuant to paragraph
13 (1) of this subsection shall not be less than the amount of the
14 terminated annuity plus any increases under section 8462 of
15 this title occurring after the termination of the annuity and
16 before the commencement of the redetermined annuity.

17 “(b)(1) Under regulations prescribed by the Office, sub-
18 ject to paragraph (2) of this subsection, an annuitant who
19 becomes employed in an appointive or elective position in the
20 Government on a part-time basis may elect to continue to
21 receive an annuity under subchapter II of this chapter.

22 “(2) The sum of—

23 “(A) the amount of an annuity payable under
24 subchapter II of this chapter to an annuitant making
25 an election under paragraph (1) of this subsection, and

1 “(B) the annual rate of pay payable to the
2 annuitant,
3 during the part-time employment referred to in such para-
4 graph may not exceed the annual rate of pay which is pay-
5 able for full-time employment in the position in which the
6 annuitant is employed.

7 **“§ 8469. Information**

8 “(a) The Office shall make available to each individual
9 who is required or eligible to be a participant such informa-
10 tion as may be necessary to enable the individual to under-
11 stand the rights and benefits, including options, which the
12 individual has under the provisions of this chapter.

13 “(b) The Office shall include in the information made
14 available under subsection (a) of this section a summary de-
15 scription of the Thrift Savings Plan including—

16 “(1) information similar to the information re-
17 quired to be included in a summary description plan
18 for the purpose of the Employee Retirement Income
19 Security Act of 1974, as provided in section 102 of
20 such Act (29 U.S.C. 1022); and

21 “(2) a statement that an investment of a partici-
22 pant's funds in the Common Stock Index Investment
23 Fund (as defined in section 8427(a)(1) of this title) is
24 made at the risk of the participant, that the participant
25 is not protected by the Federal Government against

1 *loss on such investment, and that a return on*
2 *such investment is not guaranteed by the Federal*
3 *Government.*

4 “SUBCHAPTER VII—TRANSITION PROVISIONS

5 “§ 8471. *Treatment of certain individuals subject to the Civil Service Re-*
6 *irement and Disability System*

7 “(a)(1)(A) *Any individual—*

8 “(i) *who is subject to subchapter III of chapter 83*
9 *of this title as an employee (as defined in section*
10 *8331(1) of this title, other than an individual em-*
11 *ployed by the government of the District of Columbia),*
12 *whose employment by the Federal Government is not*
13 *employment for the purposes of title II of the Social*
14 *Security Act and chapter 21 of the Internal Revenue*
15 *Code of 1954, and who is not required by section 8402*
16 *of this title to be a participant,*

17 “(ii) *who is subject to subchapter III of chapter*
18 *83 of this title as an employee (as defined in section*
19 *8331(1) of this title, other than an individual em-*
20 *ployed by the government of the District of Columbia),*
21 *whose employment by the Federal Government before*
22 *January 1, 1984, is employment for the purposes of*
23 *title II of the Social Security Act and chapter 21 of*
24 *the Internal Revenue Code of 1954, and who is not re-*
25 *quired by section 8402 of this title to be a participant,*
26 *or*

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1 “(iii) who is a Member of Congress (as defined in
2 section 2106 of this title) and who is not required by
3 section 8402 of this title to be a participant,
4 may elect to commence participation in the System.

5 “(B) An election made under subparagraph (A) of this
6 paragraph shall be made in writing, in accordance with such
7 regulations as the Office may prescribe, and not later than
8 December 31, 1987, or, in the case of an individual who
9 becomes an employee or Member after a break in service for a
10 period that includes January 1, 1987, not later than 1 year
11 after the date on which the individual resumes service.

12 “(2) Except as provided in section 8472(d) of this title,
13 any individual who makes the election authorized by para-
14 graph (1) of this subsection shall retain accrued credit for
15 entitlement to benefits under subchapter III of chapter 83 of
16 title 5, United States Code, for service performed while sub-
17 ject to such subchapter.

18 “(3) An individual referred to in paragraph (1) of this
19 subsection who becomes an employee or Member after a break
20 in service for a period that includes January 1, 1987, may
21 make deposits under section 8334 of this title for service per-
22 formed before such date while subject to subchapter III of
23 chapter 83 of this title.

24 “(b) Except as provided in section 8472(d) of this title,
25 any individual who—

1 “(1) has an unrefunded lump-sum credit in the
2 Fund under subchapter III of chapter 83 of this title,

3 “(2) is required by section 8402 of this title to be
4 a participant, and

5 “(3) is not a participant referred to in section
6 8473(a) of this title,

7 shall retain accrued credit for entitlement to benefits under
8 such subchapter for service performed while subject to such
9 subchapter.

10 “(c) Except as provided in section 8472(d) of this title,
11 any individual who—

12 “(1) has received a refund of a lump-sum credit
13 in the Fund under subchapter III of chapter 83 of this
14 title,

15 “(2) is required by section 8402 of this title to be
16 a participant, and

17 “(3) is not a participant referred to in section
18 8473(a) of this title,

19 may make deposits under section 8334 of this title for service
20 performed before January 1, 1987, while subject to subchap-
21 ter III of chapter 83 of this title and shall, upon making such
22 deposits, be entitled to credit under such subchapter for serv-
23 ice covered by the deposits.

24 “(d) Survivor benefits shall be payable as provided in
25 subchapter III of chapter 83 of this title and this chapter to

1 *the extent of the service creditable under such subchapter*
2 *(pursuant to this section) and this chapter in the case of a*
3 *participant referred to in subsection (a), (b), or (c) of this*
4 *section.*

5 ***“§ 8472. Special rules for participants retaining entitlement in the Civil***
6 ***Service Retirement and Disability System***

7 *“(a) Service that is creditable under subchapter III of*
8 *chapter 83 of this title in the case of an individual who elects*
9 *to be a participant or who retains entitlement in the Civil*
10 *Service Retirement and Disability System under section*
11 *8471 of this title shall be credited as service under this chap-*
12 *ter only—*

13 *“(1) for the purposes of determining eligibility to*
14 *retire entitled to an annuity under section 8411 or*
15 *8412 of this title and entitlement for disability benefits*
16 *under subchapter V of this chapter;*

17 *“(2) for the purpose of considering such service as*
18 *years of participation in the System for the purposes of*
19 *section 8422 of this title (relating to vesting under the*
20 *thrift savings plan); and*

21 *“(3) for the purpose of determining the percent to*
22 *apply under the applicable formula prescribed in sec-*
23 *tion 8413(a)(1) of this title with respect to service*
24 *which is creditable for all purposes under this chapter.*

1 “(b) Service performed as a participant in the System
2 by an individual referred to in subsection (a) of this section
3 shall be credited under subchapter III of chapter 83 of this
4 title only for the purpose of determining eligibility to retire
5 entitled to an annuity under section 8335, 8336, or 8338 of
6 this title.

7 “(c)(1) The rates of basic pay in effect for an individual
8 referred to in subsection (a) of this section on and after the
9 date the individual begins to participate in the System shall
10 be taken into account in computing the individual's average
11 pay (as defined in section 8331(4) of this title) for the pur-
12 poses of subchapter III of chapter 83 of this title.

13 “(2) The rates of basic pay in effect for an individual
14 referred to in subsection (a) of this section before the date the
15 individual begins to participate in the System shall be taken
16 into account in computing the individual's average pay for
17 the purposes of this chapter.

18 “(d) Section 8337 of this title (relating to disability re-
19 tirement) shall not apply in the case of a participant referred
20 to in subsection (a).

21 **“§ 8473. Participants subject to the Federal Employees' Retirement Con-**
22 **tribution Temporary Adjustment Act of 1983**

23 “(a)(1) The service of a participant with respect to
24 which a reduced contribution is made under section 204(a) of
25 the Federal Employees' Retirement Contribution Temporary

1 *Adjustment Act of 1983 (97 Stat. 1107; 5 U.S.C. 8331*
2 *note) shall be credited as service for the purposes of this chap-*
3 *ter and shall be considered years of participation in the*
4 *System for the purposes of section 8422(b)(1) of this title.*

5 “(2) Paragraph (1) of this subsection shall not apply to
6 a Member of Congress (as defined in section 2106 of this
7 title) or to an individual described in section
8 8471(a)(1)(A)(ii) of this title.

9 “(b)(1) On January 1, 1987, the amount computed
10 under paragraph (2) of this subsection shall be transferred
11 from the Fund to the Thrift Savings Fund in the case of a
12 participant to whom subsection (a)(1) of this section applies.
13 The amount transferred shall be credited to an account estab-
14 lished for the individual pursuant to section 8428(a) of this
15 title.

16 “(2)(A) The amount transferred from the Fund in the
17 case of a participant pursuant to paragraph (1) of this sub-
18 section shall be equal to the sum of—

19 “(i) two times the total amount deducted and
20 withheld from the basic pay of the participant pursuant
21 to section 204(a) of the Federal Employees’ Retirement
22 Contribution Temporary Adjustment Act of 1983 (97
23 Stat. 1107; 5 U.S.C. 8331 note); and

24 “(ii) interest on the amount referred to in clause
25 (i) of this subparagraph computed at the annual rate

1 *determined under the second sentence of this subpara-*
2 *graph and compounded annually, as if a fraction of*
3 *such amount (determined as provided in subparagraph*
4 *(B) of this paragraph) had been deposited to the credit*
5 *of the Fund at the end of each month for which*
6 *amounts were deducted and withheld from the basic*
7 *pay of the participant as described in clause (i) of this*
8 *subparagraph.*

9 *The annual rate referred to in clause (ii) for an amount*
10 *transferred from the Fund in any calendar year shall be*
11 *equal to the interest rate determined for such calendar year*
12 *under section 8334(e) of this title.*

13 *“(B) In the case of any participant to whom paragraph*
14 *(1) of this subsection applies—*

15 *“(i) the numerator of the fraction referred to in*
16 *subparagraph (A)(ii) of this paragraph is one; and*

17 *“(ii) the denominator of the fraction is the*
18 *number of months for which amounts were deducted*
19 *and withheld from the basic pay of the participant as*
20 *described in subparagraph (A)(i) of this paragraph.*

21 *“(3) For the purposes of section 8422 of this title—*

22 *“(A) one-half of the amount computed in the case*
23 *of a participant referred to in subsection (a) of this sec-*
24 *tion pursuant to paragraph (2) of this subsection shall*

1 *be treated as a contribution made under section*
 2 *8421(a) of this title; and*

3 *“(B) one-half of such amount shall be treated as a*
 4 *contribution made by the employing agency of the par-*
 5 *ticipant pursuant to section 8421(b) of this title.*

6 *“(4) All amounts transferred from the Fund pursuant to*
 7 *paragraph (1) of this subsection shall be invested in the Gov-*
 8 *ernment Securities Investment Fund established under sec-*
 9 *tion 8427(b)(1)(A) of this title.*

10 *“(c) The total amount of any deposit made to the Fund*
 11 *under section 8334(j) of this title (relating to deposits cover-*
 12 *ing periods of military service) in the case of a participant*
 13 *referred to in subsection (a)(1) of this section shall be refund-*
 14 *ed to the participant. The refund shall be paid out of sums in*
 15 *the Fund.*

16 **“§ 8474. Reemployed annuitants under a Government retirement system.**

17 *“(a) For the purposes of this section—*

18 *“(1) the term ‘annuitant’—*

19 *“(A) in the case of the Civil Service Retire-*
 20 *ment and Disability System, shall have the same*
 21 *meaning provided in section 8331(9) of this title;*

22 *“(B) in the case of the Foreign Service Re-*
 23 *tirement and Disability System, shall have the*
 24 *same meaning provided in section 804(1) of the*
 25 *Foreign Service Act of 1980 (22 U.S.C.*

1 4044(1)), except that such term does not include a
2 survivor; and

3 “(C) in the case of the Central Intelligence
4 Agency Retirement and Disability System,
5 means—

6 “(i) any participant who is referred to
7 in section 203 of the Central Intelligence
8 Agency Retirement Act of 1964 for Certain
9 Employees, and

10 “(ii) any individual who formerly was
11 such a participant,
12 entitled to an annuity from the Central Intelli-
13 gence Agency Retirement and Disability Fund;

14 “(2) the term ‘Government retirement system’
15 means—

16 “(A) the Civil Service Retirement and Dis-
17 ability System under subchapter III of chapter
18 83 of this title;

19 “(B) the Foreign Service Retirement and
20 Disability System under chapter 8 of the Foreign
21 Service Act of 1980 (22 U.S.C. 4041 et seq.);
22 and

23 “(C) the Central Intelligence Agency Retire-
24 ment and Disability System under the Central

1 *Intelligence Agency Retirement Act of 1964 for*
2 *Certain Employees (50 U.S.C. 403 note); and*

3 “(3) the term ‘reemployed annuitant’ means an
4 annuitant who becomes employed by the Government
5 after the effective date of the Federal Retirement
6 Reform Act of 1985 and is required by section 8402 of
7 this title to be a participant.

8 “(b) A reemployed annuitant shall retain entitlement in
9 the Government retirement system under which the annui-
10 tant was receiving an annuity.

11 “(c)(1) Service that is creditable under the Government
12 retirement system of a reemployed annuitant shall be credited
13 under this chapter only for the purpose of determining eligi-
14 bility to retire entitled to an annuity under section 8411 of
15 this title.

16 “(2) Service performed as a reemployed annuitant shall
17 not be creditable service for the purposes of the Government
18 retirement system of the reemployed annuitant.

19 “(d)(1) The rates of basic pay in effect for a reemployed
20 annuitant on and after the date the annuitant begins to par-
21 ticipate in the System shall be taken into account in comput-
22 ing the annuitant’s average pay for the purposes of the Gov-
23 ernment retirement system under which the annuitant was
24 receiving an annuity when the reemployment commenced.

6 *Act*

24 “(C) the Director; and

1 “(D) two representatives of Federal employee or-
2 ganizations appointed by the President, one of whom
3 shall be a representative from a labor organization (as
4 defined in section 7103(a)(4) of this title) and one of
5 whom shall be a representative from an organization
6 for employees who are managers.

7 “(2) If an office referred to in paragraph (1)(A), (1)(B),
8 or (1)(C) of this subsection is vacant, the person acting as the
9 officer in such office shall be a member of the Board while
10 acting as such officer.

11 “(3) The Chairman of the Federal Reserve Board shall
12 be the Chairman of the Board.

13 “(4) The members of the Board appointed under para-
14 graph (1)(D) of this subsection shall serve until replaced by
15 the President.

16 “(c) The Board shall—

17 “(1) establish policies for—

18 “(A) the investment and management of the
19 Thrift Savings Fund; and

20 “(B) the administration of subchapter III of
21 this chapter and the provisions of subchapter IV
22 of this chapter which relate to survivor annuities
23 payable out of the Thrift Savings Fund;

24 “(2) review the performance of investments made
25 for the Thrift Savings Fund;

1 “(3) without regard to civil service and classifica-
2 tion laws, fix the rate of pay of the Executive Director;

3 “(4) supervise the Executive Director; and

4 “(5) review and approve the budget of the Board.

5 “(d)(1) The Board may—

6 “(A) adopt, alter, and use a seal;

7 “(B) except as provided in paragraph (2) of this
8 subsection, direct the Executive Director to take such
9 action as the Board considers appropriate to carry out
10 the provisions of this subchapter and subchapter III of
11 this chapter, the provisions of subchapter IV of this
12 chapter which relate to survivor annuities payable out
13 of the Thrift Savings Fund, and the policies of the
14 Board;

15 “(C) upon the concurring votes of four members,
16 remove the Executive Director from office for good
17 cause shown after investigation by the Comptroller
18 General of the United States and after considering
19 any recommendations made by the Comptroller Gener-
20 al with respect to the removal; and

21 “(D) take such other action as may be necessary
22 to carry out the functions of the Board.

23 “(2) Except in the case of investments required by sec-
24 tion 8427 of this title to be invested in securities of the Gov-
25 ernment, the Board may not direct the Executive Director or

1 *any contractor under a contract awarded under section*
2 *8494(c)(3) this title to invest or to cause to be invested any*
3 *sums in the Thrift Savings Fund in a specific asset or to*
4 *dispose of or cause to be disposed any specific asset of such*
5 *Fund.*

6 “(e) *The members of the Board shall discharge their re-*
7 *sponsibilities solely in the interest of participants and benefi-*
8 *ciaries under this chapter.*

9 **“§ 8492. Federal Retirement Thrift Advisory Committee**

10 “(a)(1) *The Board shall establish a Federal Retirement*
11 *Thrift Advisory Committee (hereafter in this section referred*
12 *to as the ‘Advisory Committee’).*

13 “(2)(A) *The Advisory Committee shall be composed of 6*
14 *members appointed as provided in subparagraph (B) of this*
15 *paragraph.*

16 “(B) *The members of the Advisory Committee shall be*
17 *appointed by action agreed to by a majority of the members*
18 *the Board. Three of the members of the Advisory Committee*
19 *shall be appointed from among investment asset managers*
20 *not employed by the Government and three of the members of*
21 *the Advisory Committee shall be appointed from among ad-*
22 *ministrators of thrift savings plans established for employees*
23 *of private sector enterprises.*

24 “(3) *The Board shall prescribe the terms and conditions*
25 *of service of the members of the Advisory Committee.*

1 “(b) *The Advisory Committee shall—*

2 “(1) *advise the Board and the Executive Director*
3 *on matters relating to—*

4 “(A)(i) *investment policy for the Thrift Sav-*
5 *ings Fund;*

6 “(ii) *selection of the types of investment*
7 *funds which are appropriate for investment of*
8 *sums in the Thrift Savings Fund; and*

9 “(iii) *selection of investment managers for*
10 *the purpose of contracting for the administration*
11 *of investment funds under section 8494(c)(2) of*
12 *this title; and*

13 “(B)(i) *the performance of the duties of the*
14 *Board and the Executive Director under the pro-*
15 *visions of this subchapter and subchapter III of*
16 *this chapter and the provisions of subchapter IV*
17 *of this chapter which relate to survivor annuities*
18 *payable out of the Thrift Savings Fund; and*

19 “(ii) *the administration of such provisions;*
20 *and*

21 “(2) *review the performance of investments made*
22 *for the Thrift Savings Fund.*

23 **“§ 8493. *Employee Advisory Committee***

24 “(a) *The Board shall establish an Employee Advisory*
25 *Committee. The Employee Advisory Committee shall be com-*

1 *posed of 5 members, elected in accordance with subsection (b)*
2 *of this section, each of whom is a participant and has an*
3 *account balance in the Thrift Savings Fund.*

4 “(b)(1) *For the purposes of this subsection, the term*
5 *‘voting participant’ means a participant who has an account*
6 *balance in the Thrift Savings Fund.*

7 “(2) *The members of the Employee Advisory Committee*
8 *shall be elected by majority vote of the voting participants*
9 *that vote in accordance with this subsection and the regula-*
10 *tions prescribed by the Executive Director.*

11 “(3) *Each voting participant shall have one vote for*
12 *each vacancy on the Employee Advisory Committee. For*
13 *each election, a voting participant shall be entitled to cast*
14 *only one vote for an individual nominee.*

15 “(4) *Nominations for the election of members to the*
16 *Employee Advisory Committee shall be solicited from voting*
17 *participants. Each nominee shall have the opportunity, in*
18 *accordance with the regulations prescribed by the Executive*
19 *Director, to submit a brief statement to voting participants in*
20 *connection with the election.*

21 “(5) *Run-off elections shall be held in accordance with*
22 *the regulations prescribed by the Executive Director.*

23 “(6) *Each member of the Employee Advisory Commit-*
24 *tee shall serve for a term of 2 years, except that, in accord-*
25 *ance with regulations prescribed by the Executive Director, 3*

1 *of the first 5 members shall serve for a term of 3 years. In the*
2 *event that a member, for any reason, fails to complete his or*
3 *her term, an election will be held, in accordance with regula-*
4 *tions prescribed by the Executive Director, to fill that vacan-*
5 *cy for the remainder of the member's term.*

6 “(c) *The Employee Advisory Committee shall act by*
7 *resolution of a majority of the members.*

8 “(d) *The Employee Advisory Committee shall—*

9 “(1) *advise the Board and the Executive Director*
10 *on matters relating to—*

11 “(A) *investment policies for the Thrift Sav-*
12 *ings Fund, and*

13 “(B) *selection of the types of investment*
14 *funds that are appropriate for investment of sums*
15 *in the Thrift Savings Fund;*

16 “(2) *advise the Executive Director regarding ex-*
17 *clusion of stocks from the Common Stock Index In-*
18 *vestment Fund for the purposes of section*
19 *8427(b)(2)(C) of this title;*

20 “(3) *exercise all rights as shareholders with re-*
21 *spect to stocks purchased for investments of the*
22 *Common Stock Index Investment Fund; and*

23 “(4) *perform such other duties, as the Board may*
24 *direct, with respect to investment funds established in*
25 *accordance with section 8427(b)(1)(D) of this title.*

1 ***“§ 8494. Executive Director***

2 *“(a)(1) The Board shall appoint an Executive Director*
3 *by action agreed to by a majority of the members of the*
4 *Board. The Executive Director shall have substantial experi-*
5 *ence, training, or expertise in the management of financial*
6 *investments.*

7 *“(2) The Board shall prescribe the terms and conditions*
8 *of service of the Executive Director.*

9 *“(b) The Executive Director shall—*

10 *“(1) carry out the policies established by the*
11 *Board;*

12 *“(2) invest and manage the Thrift Savings Fund*
13 *in accordance with the investment and other policies*
14 *established by the Board;*

15 *“(3) provide for payment of annuities and other*
16 *authorized distributions from the Thrift Savings Fund*
17 *under this chapter, by the Office or otherwise; and*

18 *“(4) administer the provisions of this subchapter*
19 *and subchapter III of this chapter and the provisions*
20 *of subchapter IV of this chapter which relate to survi-*
21 *vor annuities payable out of the Thrift Savings Fund.*

22 *“(c) The Executive Director, may—*

23 *“(1) prescribe regulations to carry out the respon-*
24 *sibilities of the Executive Director under this section,*
25 *other than regulations relating to fiduciary responsibil-*
26 *ities;*

1 “(2) without regard to civil service and classifica-
2 tion laws, appoint, employ, and fix the compensation of
3 such personnel as may be necessary to carry out the
4 provisions of this subchapter and subchapter III of this
5 chapter and the provisions of subchapter IV of this
6 chapter which relate to survivor annuities payable out
7 of the Thrift Savings Fund;

8 “(3) enter into such contracts or other arrange-
9 ments (including contracts for the performance of ad-
10 ministrative services), and make such modifications
11 thereof, as may be appropriate to carry out the provi-
12 sions of this subchapter and section 8427 of this title
13 and the policies of the Board;

14 “(4) except as provided in section 552a of this
15 title, obtain from any Federal agency, including any
16 independent establishment or instrumentality of the
17 United States, advice, information, estimates, statis-
18 tics, and such other assistance as the Executive Direc-
19 tor considers necessary to carry out the provisions of
20 this subchapter and subchapter III of this chapter, the
21 provisions of subchapter IV of this chapter which relate
22 to survivor annuities payable out of the Thrift Savings
23 Fund, and the policies of the Board;

24 “(5) make such payments out of sums in the
25 Thrift Savings Fund as the Executive Director deter-

1 *mines are necessary to carry out the provisions of this*
2 *subchapter, subchapter III of this chapter, the provi-*
3 *sions of subchapter IV of this chapter which relate to*
4 *survivor annuities payable out of the Thrift Savings*
5 *Fund, and the policies of the Board;*

6 *“(6) pay the compensation, per diem, and travel*
7 *expenses of personnel from the Thrift Savings Fund;*

8 *“(7) accept and utilize the services of individuals*
9 *employed intermittently in the Government service and*
10 *reimburse such individuals for travel expenses, as au-*
11 *thorized by section 5703 of this title, including per*
12 *diem as authorized by section 5702 of this title;*

13 *“(8) except as otherwise expressly prohibited by*
14 *law or the policies of the Board, delegate any of the*
15 *Executive Director’s functions to such officers and em-*
16 *ployees under the Board as the Executive Director*
17 *may designate and authorize such successive redelega-*
18 *tions of such functions to such officers and employees*
19 *under the Board as the Executive Director may con-*
20 *sider to be necessary or appropriate; and*

21 *“(9) take such other actions as are appropriate to*
22 *carry out the functions of the Executive Director.*

23 **“§ 8495. Investment policy**

24 *“The Board shall develop investment policies under sec-*
25 *tion 8491(c)(1) of this title which provide for—*

1 “(1) prudent investments suitable for accumulat-
2 ing funds for payment of retirement income;

3 “(2) low administrative costs; and

4 “(3) investments likely to receive broad acceptance
5 by participants and the public, taking into consider-
6 ation the views of the Employee Advisory Committee.

7 **“§ 8496. Administrative provisions**

8 “(a) The Board shall meet—

9 “(1) not less than once during each fiscal year;
10 and

11 “(2) at additional times at the call of the Chair-
12 man.

13 “(b)(1) Except as provided in section 8491(d)(1)(C) of
14 this title, the Board shall perform the functions and exercise
15 the powers of the Board on a majority vote of a quorum of the
16 Board.

17 “(2) A vacancy on the Board shall not impair the au-
18 thority of a quorum of the Board to perform the functions and
19 exercise the powers of the Board.

20 “(c) Three members of the Board shall constitute a
21 quorum for the transaction of business.

22 “(d)(1) Each member of the Board who is not an officer
23 or employee of the Federal Government, each member of the
24 Employee Advisory Committee who is not an employee or
25 Member, and each member of the Federal Retirement Thrift

1 *Advisory Committee shall be compensated at the daily rate of*
2 *basic pay payable for grade GS-18 under the General*
3 *Schedule for each day or part thereof during which such*
4 *member is engaged in performing a function of the Board or*
5 *the Federal Retirement Thrift Advisory Committee, as the*
6 *case may be.*

7 “(2) *A member of the Board, the Federal Retirement*
8 *Thrift Advisory Committee, or the Employee Advisory Com-*
9 *mittee shall be paid travel, per diem, and other necessary*
10 *expenses under subchapter I of chapter 57 of this title while*
11 *traveling away from his home or regular place of business in*
12 *the performance of the duties of the Board, the Federal Re-*
13 *tirement Thrift Advisory Committee, or the Employee Advi-*
14 *sory Committee, as the case may be.*

15 “(e) *The accrued annual leave of any employee who is a*
16 *member of the Board or the Employee Advisory Committee*
17 *shall not be charged for any time used in performing service*
18 *for the Board or such committee during any work period.*

19 “(f) *Section 14(a)(2) of the Federal Advisory Commit-*
20 *tee Act (86 Stat. 776; 5 U.S.C. App.) shall not apply to the*
21 *Federal Retirement Thrift Advisory Committee or the Em-*
22 *ployee Advisory Committee.*

23 **“§ 8497. Fiduciary responsibilities; liability and penalty**

24 “(a) *For the purposes of this section—*

25 “(1) *the term ‘fiduciary’ means—*

1 “(A) each member of the Federal Retirement
2 Thrift Advisory Committee and the Executive Di-
3 rector;

4 “(B) any person who has or exercises discre-
5 tionary authority or discretionary control over the
6 management or disposition of the assets of the
7 Thrift Savings Fund;

8 “(C) each member of the Employee Advisory
9 Committee with respect to the member’s duties in
10 connection with the Common Stock Index Invest-
11 ment Fund, except with respect to the performance
12 of the function referred to in section
13 8427(b)(2)(C) of this title; and

14 “(D) any person who, with respect to the
15 Thrift Savings Fund, is described in section
16 3(21)(A) of the Employee Retirement Income Se-
17 curity Act of 1974 (29 U.S.C. 1002(21)(A));
18 except that, such term does not include the members of
19 the Board;

20 “(2) the term ‘party in interest’ includes—

21 “(A) any fiduciary;

22 “(B) any counsel to a person who is a fidu-
23 ciary, with respect to the actions of such person as
24 a fiduciary;

25 “(C) any participant;

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1 “(D) any person providing services to the
2 Board and any person providing services to the
3 Executive Director, with respect to the actions of
4 the Executive Director as a fiduciary;

5 “(E) a labor organization the members of
6 which are participants;

7 “(F) a spouse, sibling, ancestor, lineal de-
8 scendant, or spouse of a lineal descendant of a
9 person described in subclause (A), (B), or (D) of
10 this clause;

11 “(G) a corporation, partnership, or trust or
12 estate of which, or in which, 50 percent or more
13 of—

14 “(i) the combined voting power of all
15 classes of stock entitled to vote or the total
16 value of shares of all classes of stock of such
17 corporation;

18 “(ii) the capital interest or profits inter-
19 est of such partnership; or

20 “(iii) the beneficial interest of such
21 trust or estate,

22 is owned directly or indirectly, or held by a
23 person described in subclause (A), (B), (D), or
24 (E) of this clause;

1 “(H) an employee, officer, director, or an in-
2 dividual having powers or responsibilities similar
3 to those of an officer and director, or a holder (di-
4 rectly or indirectly) of 10 percent or more of the
5 shares of a corporation referred to in subclause
6 (G) of this clause; and

7 “(I) an employee, officer, director, or an in-
8 dividual having powers or responsibilities similar
9 to those of an officer and director, or a person
10 who, directly or indirectly, is at least a 10 percent
11 partner or joint venturer (measured in capital or
12 profits) in a person described in subclause (A),
13 (B), (D), (E), or (G) of this clause;

14 “(3) the term ‘person’ means an individual, part-
15 nership, joint venture, corporation, mutual company,
16 joint-stock company, trust, estate, unincorporated orga-
17 nization, association, or labor organization; and

18 “(4) the term ‘adequate consideration’ means—

19 “(A) in the case of a security for which there
20 is a generally recognized market—

21 “(i) the price of the security prevailing
22 on a national securities exchange which is
23 registered under section 6 of the Securities
24 Exchange Act of 1934; or

1 “(ii) if the security is not traded on
2 such a national securities exchange, a price
3 not less favorable to the Thrift Savings
4 Fund than the offering price for the security
5 as established by the current bid and asked
6 prices quoted by persons independent of the
7 issuer and of any party in interest; and

8 “(B) in the case of an asset other than a se-
9 curity for which there is a generally recognized
10 market, the fair market value of the asset as de-
11 termined in good faith by the fiduciary or fiducia-
12 ries in accordance with regulations prescribed by
13 the Secretary of Labor.

14 “(b)(1) To the extent not inconsistent with the provi-
15 sions of this chapter and the policies prescribed by the Board,
16 a fiduciary shall discharge his responsibilities with respect to
17 the Thrift Savings Fund or applicable portion thereof solely
18 in the interest of the participants and beneficiaries and—

19 “(A) for the exclusive purpose of—

20 “(i) providing benefits to participants and
21 their beneficiaries; and

22 “(ii) defraying reasonable expenses of ad-
23 ministering the Thrift Savings Fund or applica-
24 ble portions thereof;

1 “(B) with the care, skill, prudence, and diligence
2 under the circumstances then prevailing that a prudent
3 individual acting in a like capacity and familiar with
4 such matters would use in the conduct of an enterprise
5 of a like character and with like objectives; and

6 “(C) to the extent permitted by section 8427 of
7 this title, by diversifying the investments of the Thrift
8 Savings Fund or applicable portions thereof so as to
9 minimize the risk of large losses, unless under the cir-
10 cumstances it is clearly prudent not to do so.

11 “(2) No fiduciary may maintain the indicia of owner-
12 ship of any assets of the Thrift Savings Fund outside the
13 jurisdiction of the district courts of the United States.

14 “(c)(1) A fiduciary shall not permit the Thrift Savings
15 Fund to engage in any of the following transactions, except
16 in exchange for adequate consideration:

17 “(A) A transfer of any assets of the Thrift Sav-
18 ings Fund to any person the fiduciary knows or should
19 know to be a party in interest or the use of such assets
20 by any such person.

21 “(B) An acquisition of any property from or sale
22 of any property to the Thrift Savings Fund by any
23 person the fiduciary knows or should know to be a
24 party in interest.

1 “(C) A transfer or exchange of services between
2 the Thrift Savings Fund and any person the fiduciary
3 knows or should know to be a party in interest.

4 “(2) Notwithstanding paragraph (1) of this subsection,
5 a fiduciary with respect to the Thrift Savings Fund shall
6 not—

7 “(A) deal with any assets of the Thrift Savings
8 Fund in his own interest or for his own account;

9 “(B) act, in an individual capacity or any other
10 capacity, in any transaction involving the Thrift Sav-
11 ings Fund on behalf of a party, or representing a
12 party, whose interests are adverse to the interests of the
13 Thrift Savings Fund or the interests of its participants
14 or beneficiaries;

15 “(C) receive any consideration for his own per-
16 sonal account from any party dealing with sums cred-
17 ited to the Thrift Savings Fund in connection with a
18 transaction involving assets of the Thrift Savings
19 Fund.

20 “(d) This section does not prohibit any fiduciary
21 from—

22 “(1) receiving any benefit which the fiduciary is
23 entitled to receive under this chapter as a participant,
24 a former participant, or a beneficiary of a participant
25 or former participant;

1 “(2) receiving any reasonable compensation au-
2 thorized by this title for services rendered, or for reim-
3 bursement of expenses properly and actually incurred,
4 in the performance of the fiduciary’s duties under this
5 chapter; or

6 “(3) serving as a fiduciary in addition to being
7 an officer, employee, agent, or other representative of a
8 party in interest.

9 “(e)(1)(A) Any fiduciary that breaches the responsibil-
10 ities, duties, and obligations set out in subsection (b) of this
11 section or violates subsection (c) of this section shall be liable
12 to the Thrift Savings Fund for any losses to such fund re-
13 sulting from each such breach or violation and to restore to
14 such fund any profits made by the fiduciary through use of
15 assets of such fund by the fiduciary, and shall be subject to
16 such other equitable or remedial relief as a court considers
17 appropriate. A fiduciary may be removed for a breach re-
18 ferred to in the preceding sentence.

19 “(B) The Secretary of Labor may assess a civil penalty
20 against a party in interest with respect to each transaction
21 which is engaged in by the party in interest and is prohibited
22 by subsection (c) of this section. The amount of such penalty
23 shall be equal to 5 percent of the amount involved in each
24 such transaction (as defined in section 4975(f)(4) of the In-
25 ternal Revenue Code of 1954) for each year or part thereof

1 *during which the prohibited transaction continues; except*
2 *that, if the transaction is not corrected (in such manner as*
3 *the Secretary of Labor shall prescribe by regulation consist-*
4 *ent with section 4975(f)(5) of the Internal Revenue Code of*
5 *1954) within 90 days after the date the Secretary of Labor*
6 *transmits notice to the party in interest (or such longer period*
7 *as the Secretary of Labor may permit), such penalty may be*
8 *in an amount not more than 100 percent of the amount*
9 *involved.*

10 “(C) A fiduciary shall not be liable under subparagraph
11 (A) of this paragraph with respect to a breach of fiduciary
12 duty under subsection (b) of this section committed before
13 becoming a fiduciary or after ceasing to be a fiduciary.

14 “(D) A fiduciary shall be jointly and severally liable
15 under subparagraph (A) of this paragraph for a breach of
16 fiduciary duty under subsection (b) of this section by another
17 fiduciary if—

18 “(i) the fiduciary participates knowingly in, or
19 knowingly undertakes to conceal, an act or omission of
20 such other fiduciary, knowing such act or omission is
21 such a breach;

22 “(ii) by the fiduciary’s failure to comply with
23 subsection (b) of this section in the administration of
24 the fiduciary’s specific responsibilities which give rise

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1 *to the fiduciary status, the fiduciary has enabled such*
2 *other fiduciary to commit such a breach; or*

3 *“(iii) the fiduciary has knowledge of a breach by*
4 *such other fiduciary, unless the fiduciary makes rea-*
5 *sonable efforts under the circumstances to remedy the*
6 *breach.*

7 *“(E) The Secretary of Labor shall prescribe, in regula-*
8 *tions, procedures for allocating fiduciary responsibilities*
9 *among fiduciaries, including investment managers. Any fi-*
10 *duciary who, pursuant to such procedures, allocates to a*
11 *person or persons any fiduciary responsibility shall not be*
12 *liable for an act or omission of such person or persons*
13 *unless—*

14 *“(i) such fiduciary violated subsection (b) of this*
15 *section with respect to the allocation, with respect to the*
16 *implementation of the procedures prescribed by the*
17 *Board, or in continuing such allocation; or*

18 *“(ii) such fiduciary would otherwise be liable in*
19 *accordance with subparagraph (D) of this paragraph.*

20 *“(2) A civil action may be brought in the district courts*
21 *of the United States—*

22 *“(A) by the Secretary of Labor—*

23 *“(i) to determine and enforce a liability*
24 *under paragraph (1)(A) of this subsection;*

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1 “(ii) to collect any civil penalty under para-
2 graph (1)(B) of this subsection; or

3 “(iii) to enjoin any act or practice which vio-
4 lates subsection (d)(2) or (e) of section 8491 of
5 this title;

6 “(B) by the Secretary of Labor, any participant,
7 annuitant, former participant who is entitled to a de-
8 ferred annuity under section 8412 of this title, other
9 beneficiary, or fiduciary—

10 “(i) to enjoin any act or practice which vio-
11 lates any provision of subsection (b) or (c) of this
12 section; or

13 “(ii) to obtain any other appropriate equita-
14 ble relief to redress a violation of any such provi-
15 sion; or

16 “(C) by any participant, annuitant, former par-
17 ticipant entitled to a deferred annuity under section
18 8412 of this title, or other beneficiary to recover bene-
19 fits due to him or her under the provisions of this
20 chapter, to enforce his or her rights under such provi-
21 sions, or to clarify his or her rights to future benefits
22 under such provisions.

23 “(3) An action may not be commenced under paragraph
24 (2) of this subsection with respect to a fiduciary's breach of
25 any responsibility, duty, or obligation under subsection (b) of

1 *this section or a violation of subsection (c) of this section after*
2 *the earlier of—*

3 “(A) 6 years after (i) the date of the last action
4 which constituted a part of the breach or violation, or
5 (ii) in the case of an omission, the latest date on which
6 the fiduciary could have cured the breach or violation;
7 or

8 “(B) 3 years after the earliest date on which the
9 plaintiff had actual knowledge of the breach or viola-
10 tion; except that, in the case of fraud or concealment,
11 such action may be commenced not later than 6 years
12 after the date of discovery of such breach or violation.

13 “(4)(A) Except for actions under paragraph (2)(C) of
14 this subsection, the district courts of the United States shall
15 have exclusive jurisdiction of civil actions under this subsec-
16 tion. State courts of competent jurisdiction and district courts
17 of the United States shall have concurrent jurisdiction of ac-
18 tions under paragraph (2)(C) of this subsection.

19 “(B) An action under this subsection may be brought in
20 the District Court of the United States for the District of
21 Columbia or a district court of the United States in the dis-
22 trict where the breach alleged in the complaint or petition
23 filed in the action took place or in the district where a defend-
24 ant resides or may be found. Process may be served in any
25 other district where a defendant resides or may be found.

1 “(5)(A) *A copy of the complaint or petition filed in any*
2 *action brought under this subsection (other than by the Secre-*
3 *tary of Labor) shall be served on the Director, the Executive*
4 *Director, the Secretary of Labor, and the Secretary of the*
5 *Treasury by certified mail.*

6 “(B) *Any officer referred to in subparagraph (A) of this*
7 *paragraph shall have the right in his discretion to intervene*
8 *in any action. If the Secretary of Labor brings an action*
9 *under paragraph (2) of this subsection on behalf of a partici-*
10 *pant or beneficiary, he shall notify the Director, the Execu-*
11 *tive Director, and the Secretary of the Treasury.*

12 “(f) *The Secretary of Labor may prescribe regulations*
13 *to carry out this section, and may prescribe regulations ex-*
14 *empting a person or class of persons from the requirements of*
15 *this section.*

16 “(g) *The Secretary of Labor, in consultation with the*
17 *Comptroller General of the United States, shall establish a*
18 *program to carry out regular audits to determine the level of*
19 *compliance with the requirements of this section relating to*
20 *fiduciary responsibilities and prohibited activities of*
21 *fiduciaries.*

22 **“§ 8498. Bonding**

23 “(a)(1) *Except as provided in paragraph (2) of this sub-*
24 *section, each fiduciary and each person who handles funds or*

1 *property of the Thrift Savings Fund shall be bonded as pro-*
2 *vided in this section.*

3 “(2)(A) *Bond shall not be required of a fiduciary (or of*
4 *any director, officer, or employee of such fiduciary) if such*
5 *fiduciary—*

6 “(i) *is a corporation organized and doing business*
7 *under the laws of the United States or of any State;*

8 “(ii) *is authorized under such laws to exercise*
9 *trust powers or to conduct an insurance business;*

10 “(iii) *is subject to supervision or examination by*
11 *Federal or State authority; and*

12 “(iv) *has at all times a combined capital and sur-*
13 *plus in excess of such minimum amount (not less than*
14 *\$1,000,000) as the Secretary of Labor prescribes in*
15 *regulations.*

16 “(B) *If—*

17 “(i) *a bank or other financial institution would,*
18 *but for this subparagraph, not be required to be bonded*
19 *under this section by reason of the application of*
20 *the exception provided in subparagraph (A) of this*
21 *paragraph,*

22 “(ii) *the bank or financial institution is author-*
23 *ized to exercise trust powers, and*

24 “(iii) *the deposits of the bank or financial institu-*
25 *tion are not insured by the Federal Deposit Insurance*

1 *Corporation or the Federal Savings and Loan Insur-*
2 *ance Corporation,*
3 *such exception shall apply to such bank or financial institu-*
4 *tion only if the bank or institution meets bonding require-*
5 *ments under State law which the Secretary of Labor deter-*
6 *mines are at least equivalent to those imposed on banks by*
7 *Federal law.*

8 *“(b)(1) The Secretary of Labor shall prescribe the*
9 *amount of a bond under this section at the beginning of each*
10 *fiscal year. Except as otherwise provided in this paragraph,*
11 *such amount shall not be less than 10 per centum of the*
12 *amount of funds handled. In no case shall such bond be less*
13 *than \$1,000 nor more than \$500,000, except that the Secre-*
14 *tary of Labor, after due notice and opportunity for hearing to*
15 *all interested parties, and other consideration of the record,*
16 *may prescribe an amount in excess of \$500,000.*

17 *“(2) For the purpose of prescribing the amount of a*
18 *bond under paragraph (1) of this subsection, the amount of*
19 *funds handled shall be determined by reference to the amount*
20 *of the funds handled by the person, group, or class to be cov-*
21 *ered by such bond or by their predecessor or predecessors, if*
22 *any, during the preceding fiscal year, or to the amount of*
23 *funds to be handled during the current fiscal year by such*
24 *person, group, or class, estimated as provided in regulations*
25 *prescribed by the Secretary of Labor.*

1 “(c) A bond required by subsection (a) of this section—

2 “(1) shall include such terms and conditions as
3 the Secretary of Labor considers necessary to protect
4 the Thrift Savings Fund against loss by reason of acts
5 of fraud or dishonesty on the part of the bonded person
6 directly or through connivance with others;

7 “(2) shall have as surety thereon a corporate
8 surety company which is an acceptable surety on Fed-
9 eral bonds under authority granted by the Secretary of
10 the Treasury pursuant to sections 6 through 13 of title
11 6, United States Code; and

12 “(3) shall be in a form or of a type approved by
13 the Secretary of Labor, including individual bonds or
14 schedule or blanket forms of bonds which cover a group
15 or class.

16 “(d)(1) It shall be unlawful for any person to whom
17 subsection (a) of this section applies, to receive, handle, dis-
18 burse, or otherwise exercise custody or control of any of the
19 funds or other property of the Thrift Savings Fund without
20 being bonded as required by this section.

21 “(2) It shall be unlawful for any fiduciary, or any other
22 person having authority to direct the performance of func-
23 tions described in paragraph (1) of this subsection, to permit
24 any such function to be performed by any person to whom

1 *subsection (a) of this section applies unless such person has*
2 *met the requirements of such subsection.*

3 “(e) *Notwithstanding any other provision of law, any*
4 *person who is required to be bonded as provided in subsection*
5 *(a) of this section shall be exempt from any other provision of*
6 *law which would, but for this subsection, require such person*
7 *to be bonded for the handling of the funds or other property of*
8 *the Thrift Savings Fund.*

9 “(f) *The Secretary of Labor shall prescribe regulations*
10 *to carry out the provisions of this section and may prescribe*
11 *regulations exempting a person or class of persons from the*
12 *requirements of this section.*

13 **“§ 8499. Exculpatory provisions; insurance**

14 “(a) *Any provision in an agreement or instrument*
15 *which purports to relieve a fiduciary from responsibility or*
16 *liability for any responsibility, obligation, or duty under this*
17 *subchapter shall be void.*

18 “(b)(1) *The Executive Director may require employing*
19 *agencies to contribute an amount not to exceed 1 percent of*
20 *the amount such agencies are required to contribute in ac-*
21 *cordance with section 8421(b) of this title to the Thrift Sav-*
22 *ings Fund.*

23 “(2) *The sums credited to the Thrift Savings Fund*
24 *under paragraph (1) of this subsection shall be available and*
25 *may be used at the discretion of the Executive Director to*

1 *purchase insurance to cover potential liability of persons who*
 2 *serve in a fiduciary capacity with respect to the Thrift Sav-*
 3 *ings Fund, without regard to whether a policy of insurance*
 4 *permits recourse by the insurer against the fiduciary in the*
 5 *case of a breach of a fiduciary obligation.”.*

6 *(b) The table of chapters at the beginning of part III of*
 7 *such title is amended by inserting after the item relating to*
 8 *chapter 83 the following new item:*

“84. Federal Retirement System..... 8401.”.

9 *TITLE II—AMENDMENTS RELATING TO*
 10 *SOCIAL SECURITY*

11 *AMENDMENTS TO THE SOCIAL SECURITY ACT*

12 *SEC. 201. Section 210(a)(5) of the Social Security Act*
 13 *is amended—*

14 *(1) by striking out “or” at the end of subpara-*
 15 *graph (F);*

16 *(2) by striking out the semicolon at the end of*
 17 *subparagraph (G) and inserting in lieu thereof “, or”;*
 18 *and*

19 *(3) by adding at the end thereof the following new*
 20 *subparagraph:*

21 *“(H) service performed by an individual*
 22 *after such individual has commenced participation*
 23 *in the Federal Retirement System pursuant to*
 24 *section 8471 of title 5, United States Code;”.*

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1 *AMENDMENTS TO THE INTERNAL REVENUE CODE OF*
 2 *1954*

3 *SEC. 202. Section 3121(b)(5) of the Internal Revenue*
 4 *Code of 1954 is amended—*

5 *(1) by striking out “or” at the end of subpara-*
 6 *graph (F);*

7 *(2) by striking out the semicolon at the end of*
 8 *subparagraph (G) and inserting in lieu thereof “, or”;*
 9 *and*

10 *(3) by adding at the end thereof the following new*
 11 *subparagraph:*

12 *“(H) service performed by an individual*
 13 *after such individual has commenced participation*
 14 *in the Federal Retirement System pursuant to*
 15 *section 8471 of title 5, United States Code;”.*

16 *TITLE III—MISCELLANEOUS AND*
 17 *CONFORMING AMENDMENTS*

18 *EXTENSION OF FEDERAL EMPLOYEES’ RETIREMENT*

19 *CONTRIBUTION TEMPORARY ADJUSTMENT ACT OF 1983*

20 *SEC. 301. (a) Sections 202(1), 202(6), 203(a)(4)(A),*
 21 *203(a)(4)(B), 204(a), 206(b)(2)(A)(i), and 206(c)(3) of the*
 22 *Federal Employees’ Retirement Contribution Temporary*
 23 *Adjustment Act of 1983 (97 Stat. 1106; 5 U.S.C. 8331*
 24 *note) are amended by striking out “January 1, 1986” each*

1 *place it appears and inserting in lieu thereof "January 1,*
 2 *1987".*

3 *(b) Section 205 of such Act is amended by striking out*
 4 *"and 1986" in subsections (b) and (c) and inserting in lieu*
 5 *thereof "1986, and 1987".*

6 *MISCELLANEOUS AMENDMENTS TO CHAPTER 83 OF*
 7 *TITLE 5, UNITED STATES CODE*

8 *SEC. 302. (a) Section 8331(1)(G) of title 5, United*
 9 *States Code, is amended to read as follows:*

10 *"(G) an individual first employed by the*
 11 *government of the District of Columbia before*
 12 *January 1, 1987;".*

13 *(b) Section 8332 of such title is amended by adding at*
 14 *the end thereof the following new subsection:*

15 *"(n) Except as provided in section 8472(b) of this title,*
 16 *service performed while a participant in the Federal Retire-*
 17 *ment System under chapter 84 of this title is not creditable*
 18 *under this section."*

19 *(c)(1) The first sentence of section 8333(b) of such title*
 20 *is amended by inserting "or chapter 84 of this title" after*
 21 *"subject to this subchapter".*

22 *(2) Section 8333(c) of such title is amended by adding*
 23 *at the end thereof the following new sentence: "The require-*
 24 *ments of the first sentence shall apply only with respect to the*
 25 *civilian service performed by a Member while not a partici-*

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1 *pant in the Federal Retirement System under chapter 84 of*
2 *this title.”.*

3 *(d) Subsection (a) of section 8334 of such title is*
4 *amended—*

5 *(1) in the first sentence of paragraph (1), by*
6 *striking out “The employing” and inserting in lieu*
7 *thereof “Except as provided in paragraph (3) of this*
8 *subsection, the employing”; and*

9 *(2) by adding at the end thereof the following new*
10 *paragraph:*

11 *“(3)(A) In the case of an employee or Member who was*
12 *subject to this subchapter before January 1, 1984, and whose*
13 *service—*

14 *“(i) is employment for the purposes of title II of*
15 *the Social Security Act and chapter 21 of the Internal*
16 *Revenue Code of 1954; and*

17 *“(ii) is not creditable service for any purpose*
18 *under chapter 84 of this title,*

19 *an employing agency shall deduct and withhold from the*
20 *basic pay of the employee or Member under paragraph (1) of*
21 *this subsection during any pay period only the amount com-*
22 *puted pursuant to subparagraph (B) of this paragraph.*

23 *“(B) The amount deducted and withheld from basic pay*
24 *during any pay period pursuant to subparagraph (A) of this*

1 *paragraph in the case of an employee or Member referred to*
2 *in such subparagraph shall be the excess of—*

3 “(i) *the amount determined by multiplying the*
4 *percent applicable to the employee or Member under*
5 *paragraph (1) of this subsection by the basic pay pay-*
6 *able for such pay period, over*

7 “(ii) *the amount of the taxes deducted and with-*
8 *held from such basic pay under section 3101(a) of the*
9 *Internal Revenue Code of 1954 for such pay period.”.*
10 “(e) *Section 8339 of such title is amended by adding at*
11 *the end thereof the following new subsection:*

12 “(o)(1) *Effective on the first day of the month in which*
13 *an annuitant or a survivor annuitant becomes 62 years of*
14 *age, the annuity or survivor annuity computed under the*
15 *other subsections of this section and payable to the annuitant*
16 *or a survivor annuitant shall be reduced (but not below zero)*
17 *by the amount determined by multiplying the amount of the*
18 *old-age and survivors insurance benefits which the annuitant*
19 *or survivor annuitant is entitled to receive under section 202*
20 *of the Social Security Act for the such month, if any, by a*
21 *fraction—*

22 “(A) *the numerator of which is the total of the*
23 *wages (within the meaning of section 209 of the Social*
24 *Security Act) for service which is referred to in para-*

1 *graph (2) of this subsection for years before the calen-*
 2 *dar year in which such month occurs, and*

3 *“(B) the denominator of which is the total of all*
 4 *wages (within the meaning of section 209 of the Social*
 5 *Security Act) and all self-employment income (within*
 6 *the meaning of section 211(b) of the Social Security*
 7 *Act)—*

8 *“(i) of such annuitant, or*

9 *“(ii) in the case of a survivor annuitant, of*
 10 *the employee or Member on whose service the sur-*
 11 *vivor annuity is based,*
 12 *credited for years after 1936 and before the calendar*
 13 *year in which such month occurs.*

14 *“(2) The service referred to in paragraph (1)(A) of this*
 15 *subsection is service which is covered by amounts deducted*
 16 *and withheld as provided in section 8334(a)(3) of this title, is*
 17 *service described in subparagraphs (C) through (G) of sec-*
 18 *tion 210(a)(5) of the Social Security Act, and is taken into*
 19 *account for the purpose of computing the annuity or survivor*
 20 *annuity to which paragraph (1) of this subsection applies.”.*

21 *(f) Section 8348(a) of such title is amended—*

22 *(1) in paragraph (1)(A), by inserting “or the pro-*
 23 *visions of chapter 84 of this title which relate to bene-*
 24 *fits payable out of the Fund” after “subchapter”; and*

1 (2) in paragraph (2), by inserting “, chapter 84
2 of this title,” after “chapter”.

3 **CONFORMING PROVISIONS FOR THE POSTAL SERVICE**
4 **RETIREMENT SYSTEM**

5 **SEC. 303.** *Section 1005(d) of title 39, United States*
6 *Code, is amended to read as follows:*

7 “(d) Officers and employees of the Postal Service (other
8 than the Governors) shall be covered by chapters 83 and 84
9 of title 5 according to the provisions of such chapters. The
10 Postal Service shall withhold from pay and shall pay into the
11 Civil Service Retirement and Disability Fund the amounts
12 specified in or determined under such chapter 83. The Postal
13 Service shall pay into the Civil Service Retirement and Dis-
14 ability Fund the amounts specified or determined under sub-
15 chapters II and V of such chapter 84. The Postal Service
16 shall pay into the Federal Retirement Thrift Savings Fund
17 the amounts specified in or determined under subchapter III
18 of such chapter 84.”.

19 **HEALTH BENEFIT PLAN AMENDMENTS**

20 **SEC. 304.** (a) *Section 8901(1)(E) of title 5, United*
21 *States Code, is amended to read as follows:*

22 “(E) an individual first employed by the
23 government of the District of Columbia before
24 January 1, 1987;”.

25 (b) *Section 8901(10) of such title is amended—*

26 (1) in subparagraph (C)(i)—

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1 (A) by inserting “or 8467” after “8345(j)”;

2 and

3 (B) by inserting “or 8434” after “8341(h)”;

4 and

5 (2) in subparagraph (C)(i)—

6 (A) by inserting “or 8434” after “8341(h)”;

7 and

8 (B) by inserting “or 8467” after “8345(j)”.

9 (c)(1) Subsection (b) of section 8905 of such title is
10 amended—

11 (A) by redesignating subparagraphs (A), (B), and
12 (C) of paragraph (1) as clauses (i), (ii), and (iii),
13 respectively;

14 (B) by redesignating paragraphs (1) and (2) as
15 subparagraphs (A) and (B), respectively;

16 (C) by inserting “(1)” after “(b)”;

17 (D) by adding at the end thereof the following
18 new paragraph (2):

19 “(2) A member of family of a deceased employee or an-
20 nuitant who was enrolled in a health benefit plan under this
21 chapter on the date of death of the employee or annuitant
22 may continue the enrollment under the conditions of eligibil-
23 ity prescribed in regulations issued by the Office.”.

24 (2) Subsection (c)(1) of such section is amended—

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1 (A) in subparagraph (B), by inserting “or
2 8436(a)(1)” after “8339(j)(3)”; and

3 (B) in the second sentence—

4 (i) by inserting “or 8434” after “8341(h)”;
5 and

6 (ii) by inserting “or 8467” after “8345(j)”.

7 EMPLOYEES OF CERTAIN NONAPPROPRIATED FUND

8 INSTRUMENTALITIES

9 SEC. 305. Section 2105(c) of title 5, United States
10 Code, is amended by inserting “, chapter 84,” after “chapter
11 81” in clause (2) of the first sentence.

12 DISCLOSURE OF EARNINGS INFORMATION OF DISABLED

13 FEDERAL EMPLOYEES

14 SEC. 306. (a) Paragraph (7)(D) of section 6103(l) of
15 the Internal Revenue Code of 1954 (relating to disclosure of
16 returns and return information for purposes other than tax
17 administration) is amended—

18 (1) by striking out “and” at the end of clause
19 (vi);

20 (2) by striking out the period at the end of clause
21 (vii) and inserting in lieu thereof a semicolon and
22 “and”; and

23 (3) by adding at the end thereof the following new
24 clause:

25 “(viii) disability benefits provided
26 under subchapter III of chapter 83 of title 5,

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1 *United States Code, or subchapter V of*
 2 *chapter 84 of such title.”.*

3 *(b) The heading of paragraph (7) of section 6103(l) of*
 4 *such Code is amended to read as follows:*

5 *“(7) DISCLOSURE OF RETURN INFORMATION TO*
 6 *FEDERAL, STATE, AND LOCAL AGENCIES ADMINIS-*
 7 *TERING CERTAIN PROGRAMS UNDER THE SOCIAL*
 8 *SECURITY ACT OR THE FOOD STAMP ACT OF 1977*
 9 *OR CERTAIN CIVIL SERVICE DISABILITY BENEFITS*
 10 *PROGRAMS.—”.*

11 *COMPENSATION FOR WORK INJURIES*

12 *SEC. 307. Section 8113 of title 5, United States Code,*
 13 *is amended by adding at the end thereof the following new*
 14 *subsection:*

15 *“(c) The monthly basic compensation payable under*
 16 *this subchapter to an employee or former employee who is a*
 17 *participant or former participant in the Federal Retirement*
 18 *System under chapter 84 of this title shall be reduced by the*
 19 *amount of the benefits which are payable or, upon proper*
 20 *application, would be payable for the month to such employee*
 21 *or former employee under title II of the Social Security Act*
 22 *based on the service of such employee or former employee.”.*

23 *GROUP LIFE INSURANCE FOR CERTAIN PARTICIPANTS IN*
 24 *THE FEDERAL RETIREMENT SYSTEM*

25 *SEC. 308. (a) Section 8701(a)(6) of title 5, United*
 26 *States Code, is amended to read as follows:*

1 “(6) an individual first employed by the govern-
2 ment of the District of Columbia before January 1,
3 1987;”.

4 (b) Section 8704(a)(2) of such title is amended by strik-
5 ing out “(2) the” and inserting in lieu thereof the following:

6 “(2)(A) two, in the case of a participant in the
7 Federal Retirement System under chapter 84 of this
8 title who has elected to make contributions under sec-
9 tion 8418(c) of this title, has not received a refund of
10 such contributions under section 8420 of this title, and
11 dies before retiring under such system; or

12 “(B) in the case of an employee other than a par-
13 ticipant to which subparagraph (A) of this paragraph
14 applies, the”.

15 (c) Section 8705 of such title is amended by adding at
16 the end thereof the following new subsection (e):

17 “(e)(1) Under regulations prescribed by the Office of
18 Personnel Management, any person entitled to receive pay-
19 ment of insurance under this section by reason of the death of
20 a person referred to in section 8704(a)(2)(A) of this title may
21 elect to receive such payment in monthly payments payable
22 for a period of 2 years.

23 “(2) Insurance shall be paid in accordance with an elec-
24 tion made under paragraph (1) of this subsection.”.

1 (d) Subsection (a) of section 8708 of such title is
2 amended—

3 (1) by striking out “(a) For” and inserting in
4 lieu thereof “(a)(1) Except as provided in paragraph
5 (2) of this subsection, for”; and

6 (2) by adding at the end thereof the following:

7 “(2) In the case of each employee who after December
8 31, 1989, elects to continue insurance as provided in subsec-
9 tion 8706(b)(3)(A) of this title while receiving annuity or
10 workers’ compensation, the Office shall contribute a sum
11 equal to one-half the amount which is withheld from the em-
12 ployee’s annuity or compensation pursuant to subsection
13 8707(b) of this title. The contribution shall be made out of
14 annual appropriations which are made for the purposes of
15 this paragraph. Sums appropriated pursuant to this authori-
16 zation shall remain available until expended.”.

17 (e) Chapter 87 of such title is further amended—

18 (1) in section 8706 by striking out subsection (c)
19 and redesignating subsections (d), (e), and (f) as sub-
20 sections (c), (d), and (e), respectively;

21 (2) by striking out subsection (c)(1) of section
22 8714a and inserting in lieu thereof the following:

23 “(c)(1) Except as otherwise provided in this subsection,
24 the optional insurance on an employee stops on his separa-
25 tion from service or 12 months after discontinuance of his

1 *pay, whichever is earlier, subject to a provision for temporary*
2 *extension of life insurance coverage and for conversion to an*
3 *individual policy of life insurance under conditions approved*
4 *by the Office.”;*

5 (3) *by striking out the first sentence of section*
6 *8714b(c)(1) and inserting in lieu thereof the following:*
7 *“Except as otherwise provided in this subsection, the*
8 *additional optional insurance elected by an employee*
9 *pursuant to this section shall stop on separation from*
10 *service or 12 months after discontinuance of his pay,*
11 *whichever is earlier, subject to a provision for tempo-*
12 *rary extension of life insurance coverage and for con-*
13 *version to an individual policy of life insurance under*
14 *conditions approved by the Office.”; and*

15 (4) *by striking out subsection (c)(1) of section*
16 *8714c and inserting in lieu thereof the following:*

17 *“(c)(1) Except as otherwise provided in this subsection,*
18 *the optional life insurance on family members shall stop at*
19 *the earlier of the employee’s separation from the service or 12*
20 *months after discontinuance of pay, subject to a provision for*
21 *temporary extension of life insurance coverage and for con-*
22 *version to individual policies of life insurance under condi-*
23 *tions approved by the Office.”.*

24 JUDICIAL SURVIVORS’ ANNUITIES

25 SEC. 309. (a) *Section 376 of title 28, United States*
26 *Code, is amended—*

1 (1) in subsections (b) and (d) by striking out “4.5
2 percent” each place it appears and inserting in lieu
3 thereof “5 percent”;

4 (2) by striking out subsection (c) and inserting in
5 lieu thereof the following:

6 “(c)(1) There shall also be deposited to the credit of the
7 Judicial Survivors’ Annuities Fund, in accordance with
8 such procedures as the Comptroller General of the United
9 States may prescribe, amounts required to reduce to zero the
10 unfunded liability of the Judicial Survivors’ Annuities
11 Fund. Such deposits shall be taken from the fund used to pay
12 the compensation of the judicial official, and shall immedi-
13 ately become an integrated part of the Judicial Survivors’
14 Annuities Fund for any use required under this section.

15 “(2) For purposes of paragraph (1), the term ‘unfunded
16 liability’ means the estimated excess, determined by the
17 Comptroller General on an annual basis, of the present value
18 of all benefits payable from the Judicial Survivors’ Annuities
19 Fund, over the sum of—

20 “(A) the present value of deductions to be with-
21 held from the future basic pay of judicial officials; plus

22 “(B) the balance in such fund as of the date the
23 unfunded liability is determined.

24 In making any determination under this paragraph, the
25 Comptroller General shall use the applicable information

1 *contained in the reports filed pursuant to section 9503 of title*
2 *31 with respect to the judicial survivors' annuities plan es-*
3 *tablished by this section.”;*

4 *(3) in subsection (h)—*

5 *(A) by striking out clauses (i) and (ii) in*
6 *paragraph (1)(B) and inserting in lieu thereof the*
7 *following:*

8 *“(i) 10 percent of the average annual*
9 *salary determined under subsection (l)(1) of*
10 *this section; or*

11 *“(ii) 20 percent of such average annual*
12 *salary, divided by the number of children;”;*

13 *(B) by striking out clauses (ii) and (iii) in*
14 *paragraph (1)(C) and inserting in lieu thereof the*
15 *following:*

16 *“(ii) 20 percent of the average annual*
17 *salary determined under subsection (l)(1) of*
18 *this section; or*

19 *“(iii) 40 percent of such average annual*
20 *salary amount, divided by the number of*
21 *children;”;* and

22 *(C) by inserting immediately after “remar-*
23 *riage” in paragraph (2) the following: “before at-*
24 *taining 55 years of age”;*

25 *(4) in subsection (l)—*

1 (A) by striking out “1¼ percent” and insert-
2 ing in lieu thereof “1.5 percent”;

3 (B) by striking out the colon after “subsec-
4 tion” in paragraph (2) and inserting in lieu
5 thereof a semicolon; and

6 (C) by striking out the proviso and inserting
7 in lieu thereof the following: “except that such an-
8 nuity shall not exceed an amount equal to 50 per-
9 cent of such average annual salary, nor be less
10 than an amount equal to 30 percent of such aver-
11 age annual salary. Any annuity determined in
12 accordance with the provisions of this subsection
13 shall be reduced to the extent required by subsec-
14 tion (d) of this section, if applicable.”.

15 (b) Section 7448 of the Internal Revenue Code of 1954
16 is amended—

17 (1) in subsection (c)—

18 (A) by striking out “(c) SALARY DEDUC-
19 TIONS.—There” and inserting in lieu thereof:

20 “(c) SURVIVORS ANNUITY FUND.—

21 “(1) SALARY DEDUCTIONS.—There”,

22 (B) by striking out “3 percent” and insert-
23 ing in lieu thereof “3.5 percent”; and

24 (C) by inserting at the end thereof the fol-
25 lowing new paragraph (2):

1 “(2) *UNFUNDED LIABILITY DEPOSITS.—*

2 “(A) *IN GENERAL.—There shall also be de-*
3 *posited to the credit of the survivors annuity fund,*
4 *in accordance with such procedures as the Comp-*
5 *troller General of the United States may pre-*
6 *scribe, amounts required to reduce to zero the un-*
7 *funded liability of the survivors annuity fund.*
8 *Such deposits shall be taken from the fund used*
9 *to pay the compensation of the judge, and shall*
10 *immediately become an integrated part of the sur-*
11 *vivors annuity fund for any use required under*
12 *this section.*

13 “(B) *UNFUNDED LIABILITY DEFINED.—*
14 *For purposes of subparagraph (A), the term ‘un-*
15 *funded liability’ means the estimated excess, de-*
16 *termined by the Comptroller General on an*
17 *annual basis, of the present value of all benefits*
18 *payable from the survivors annuity fund, over the*
19 *sum of—*

20 “(i) *the present value of deductions to*
21 *be withheld from the future basic pay of*
22 *judges; plus*

23 “(ii) *the balance in such fund as of the*
24 *date the unfunded liability is determined.*

1 *In making any determination under this subpara-*
2 *graph, the Comptroller General shall use the ap-*
3 *plicable information contained in the reports filed*
4 *pursuant to section 9503 of title 31, United*
5 *States Code, with respect to the Tax Court judges*
6 *survivors annuity plan established by this*
7 *section.”;*

8 *(2) in subsection (d) by striking out “3 percent”*
9 *the second place it appears and inserting in lieu thereof*
10 *“3.5 percent”;*

11 *(3) in subsection (h)—*

12 *(A) by striking out “subsection (c)” and in-*
13 *serting in lieu thereof “subsection (c)(1)”;*

14 *(B) by striking out all after the words*
15 *“equal to” in paragraph (2) and inserting in lieu*
16 *thereof “the lesser of:*

17 *“(A) 10 percent of the average annual salary*
18 *amount determined in accordance with the provi-*
19 *sions of subsection (m); or*

20 *“(B) 20 percent of such average annual*
21 *salary amount, divided by the number of children;*
22 *or”;*

23 *(C) by striking out all after the words “equal*
24 *to” in paragraph (3) and inserting in lieu thereof*
25 *“the lesser of:*

1 “(A) 20 percent of the average annual salary
2 amount determined in accordance with the provi-
3 sions of subsection (m); or

4 “(B) 40 percent of such average annual
5 salary amount, divided by the number of chil-
6 dren.”; and

7 (D) by inserting “before attaining fifty-five
8 years of age” immediately after “remarriage” in
9 the first sentence in the matter after paragraph
10 (3); and

11 (4) in subsection (m)—

12 (A) by striking out “1¼ percent” and insert-
13 ing in lieu thereof “1.5 percent”; and

14 (B) by striking out the comma and all other
15 matter after “other prior allowable service” where
16 it last appears and inserting in lieu thereof “,
17 except that such annuity shall not exceed an
18 amount equal to 50 percent of such average
19 annual salary, nor be less than an amount equal
20 to 30 percent of such average annual salary, and
21 that any amount determined in accordance with
22 the provisions of this subsection shall be reduced
23 to the extent required by subsection (d), if appli-
24 cable.”.

1 (c)(1) Subsections (a) and (b) of section 1567 of title 11
2 of the District of Columbia Code are amended by striking out
3 “3 per centum” each place it appears and inserting in lieu
4 thereof “3.5 percent”.

5 (2)(A) Subsection (a) of section 1568 of title 11 of the
6 District of Columbia Code is amended by striking out “com-
7 puting a survivor annuity” and inserting in lieu thereof
8 “any provision of this subchapter which refers to this
9 subsection”.

10 (B) Subsection (c) of section 1568 of title 11 of the
11 District of Columbia Code is amended—

12 (i) in paragraph (2)(B), by striking out “the
13 lesser of (i) \$2,700 per year divided by the number of
14 such children or (ii) \$900” and inserting in lieu there-
15 of “the lesser of (i) \$8,424 per year divided by the
16 number of such children or (ii) \$2,808”;

17 (ii) in paragraph (3), by striking out “the lesser
18 of (A) \$3,240 per year divided by the number of such
19 children or (B) \$1,080” and inserting in lieu thereof
20 “the lesser of (A) \$10,110 per year divided by the
21 number of such children or (B) \$3,370”;

22 (iii) by inserting before the first sentence of the
23 matter following paragraph (3) the following:

24 “For the purpose of computing, under this paragraph, the
25 annuity of a child that commences on or after January 1,

1 1987, the figures \$8,424, \$2,808, \$10,110, and \$3,370 shall
2 be increased by the total percent increases allowed and in
3 force with respect to retirement salaries of judges under sec-
4 tion 11-1571(a) of this title on or after such date.”; and

5 (iv) in the first sentence of the matter following
6 paragraph (3) by inserting before the period the follow-
7 ing: “prior to the attainment of fifty-five years of age”.

8 (C) Subsection (e) of section 1568 of title 11 of the
9 District of Columbia Code is amended to read as follows:
10 “(e) The annuity of a widow or widower of a judge
11 electing survivor annuity shall be equal to—

12 “(1) in the case of a judge who dies while in
13 active regular service as a judge, the greater of—

14 “(A) 60 percent of the retirement salary the
15 judge would have been entitled to receive if the
16 judge had retired on the day before the date of
17 death (without regard to the age requirements pre-
18 scribed in section 11-1562(b)), or

19 “(B) 60 percent of the retirement salary the
20 judge would have been entitled to receive if the
21 judge had retired on the day before the date of
22 death with 15 years of service for the purposes of
23 this subchapter (without regard to the age require-
24 ments prescribed in section 11-1562(b)),
25 computed under section 11-1564; and

1 “(2) in the case of a retired judge, 60 percent of
2 the retirement salary payable to such judge on the day
3 before the date of the judge’s death.”.

4 (d) The benefits conferred by section 376 of title 28,
5 United States Code, section 7448 of the Internal Revenue
6 Code of 1954, and section 1568 of title 11 of the District of
7 Columbia Code by reason of the amendments made by this
8 section shall apply only to individuals who first become eligi-
9 ble for annuities under such sections on or after the effective
10 date of this Act, except that—

11 (1) such annuities shall be computed in accord-
12 ance with the provisions of such sections, as amended
13 by this section, notwithstanding contributions or depos-
14 its made in accordance with applicable law at lower
15 rates; and

16 (2) no additional liability shall be created with re-
17 spect to deposits made in accordance with applicable
18 law before the effective date of this Act, or after such
19 effective date pursuant to an installment payment elec-
20 tion made under section 376(d) of title 28, United
21 States Code, section 7448(d) of the Internal Revenue
22 Code of 1954, or section 1567(b) of title 11 of the Dis-
23 trict of Columbia Code before such effective date.

1 *TITLE IV—AUTHORIZATIONS, APPLICATION,*
2 *AND EFFECTIVE DATES*

3 *FIRST YEAR EXPENSES OF THE FEDERAL RETIREMENT*
4 *THRIFT INVESTMENT MANAGEMENT SYSTEM*

5 *SEC. 401. (a) Notwithstanding section 8426(c)(3) of*
6 *title 5, United States Code, as added by section 101 of this*
7 *Act, the expenses incurred in the administration of the Fed-*
8 *eral Retirement Thrift Investment Management System pre-*
9 *scribed in subchapter VIII of chapter 84 of such title, as*
10 *added by section 101 of this Act, during fiscal years 1986*
11 *and 1987 shall be paid from sums appropriated pursuant to*
12 *subsection (b).*

13 *(b) There are authorized to be appropriated to the Feder-*
14 *al Retirement Thrift Investment Board, for fiscal years 1986*
15 *and 1987, such sums as may be necessary to pay the ex-*
16 *penses incurred in the administration of the Federal Retire-*
17 *ment Thrift Investment Management System prescribed in*
18 *subchapter VIII of chapter 84 of title 5, United States Code,*
19 *as added by section 101 of this Act, during such fiscal years.*

20 *AUTHORIZATION TO CARRY OUT INFORMATION PROGRAM*

21 *SEC. 402. (a) The Office of Personnel Management*
22 *shall take appropriate action during fiscal years 1986 and*
23 *1987, to make available on or before January 1, 1987, the*
24 *information described in section 8469 of title 5, United*
25 *States Code, as added by section 101(a) of this Act.*

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1 (b) *There are authorized to be appropriated \$1,000,000*
2 *to the Office of Personnel Management for fiscal year 1986*
3 *to carry out subsection (a). Sums appropriated pursuant to*
4 *this authorization shall remain available until expended or*
5 *until October 1, 1987, whichever is earlier.*

6 *APPLICATION*

7 *SEC. 403. Except for the provisions of subchapter VII*
8 *of chapter 84 of title 5, United States Code (as added by*
9 *section 101(a) of this Act), and the amendments made by title*
10 *III of this Act, nothing in this Act shall reduce the accrued*
11 *entitlements of current and retired Federal employees and*
12 *their families to future benefits under the Civil Service Re-*
13 *irement and Disability System or any other Federal Gov-*
14 *ernment retirement and disability system. The full faith and*
15 *credit of the United States Government is hereby pledged in*
16 *support of the payment of such accrued entitlements.*

17 *EFFECTIVE DATES*

18 *SEC. 404. (a) Except as provided in subsections (b)*
19 *and (c), this Act and the amendments made by this Act shall*
20 *take effect January 1, 1987.*

21 (b) *Subchapter VIII of chapter 84 of title 5, United*
22 *States Code (relating to the Federal Retirement Thrift In-*
23 *vestment Management System), as added by section 101,*
24 *shall take effect on the date of enactment of this Act.*

25 (c) *The amendments made by section 301 shall take*
26 *effect on the date of enactment of this Act.*

- 1 *(d) The program required by section 8426(e) of title 5,*
- 2 *United States Code, as added by section 101(a) of this Act,*
- 3 *shall be established not later than January 1, 1988.*

Calendar No. 371

99TH CONGRESS
1ST Session

S. 1527

[Report No. 99-166]

A BILL

To amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

OCTOBER 30 (legislative day, OCTOBER 28), 1985

Reported with an amendment